5–5–00 Friday
Vol. 65 No. 88 May 5, 2000
Pages 26117–26480

Federal Register

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 23, 2000 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 65, No. 88
Friday, May 5, 2000

Presidential Documents

Title 3—

The President

Proclamation 7302 of May 2, 2000

Jewish Heritage Week, 2000

By the President of the United States of America

A Proclamation

For centuries, Jews from every corner of the globe have come to America seeking the right to worship in freedom and to pursue their individual hopes and dreams in peace. For many, the journey was a desperate flight from oppression and persecution to a new life in a new country. Bolstered by powerful family and community ties and drawing strength and hope from their ancient religious traditions, Jews in America not only survived the difficult transition, but also thrived.

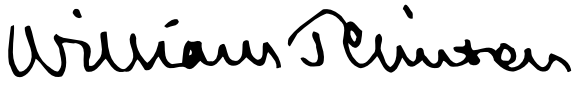
From science and the arts to business and the law; as teachers, physicians, journalists, judges, musicians, and policymakers; from neighborhood stores to the corridors of Congress; from the Armed Forces to the Supreme Court, generations of American Jews have succeeded in every sector of our society. And the rewards of that success are shared by us all. Our Nation has benefited immeasurably from the character, values, and achievements of our Jewish citizens.

Building on the Jewish tradition of hospitality toward strangers and acutely aware of the long and tragic history of prejudice and persecution against their people, Jews in America have committed themselves to tolerance, justice, human rights, and the rule of law. American Jews have shared their resources generously with health and human services programs, civil rights groups, educational institutions, arts organizations, and so many more. In communities across our Nation, in small towns and big cities, synagogues and yeshivas have become centers of community service and civic responsibility.

During Jewish Heritage Week, let us acknowledge and give thanks for the many contributions that Jews have brought to our national life and character, and let us celebrate the rich religious and ethnic threads that Jewish men and women have woven into the tapestry that is America.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 7 through May 14, 2000, as Jewish Heritage Week. I urge all Americans to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of May, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fourth.



[FR Doc. 00–11440
Filed 5–4–00; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 65, No. 88
Friday, May 5, 2000

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI95

Prevailing Rate Systems; Redefinition of the Southern and Western Colorado Appropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to remove Eagle, Garfield, Lake, Pitkin, Rio Blanco, and Routt Counties, Colorado, from the Southern and Western Colorado appropriated fund Federal Wage System (FWS) wage area. These counties will now be in the Denver wage area. We are also removing Mesa County, CO, from the Southern and Western Colorado FWS wage area and adding it to the Utah FWS wage area. These changes more accurately reflect the regulatory criteria we use to define FWS wage areas. Finally, we are changing the name of the Southern and Western Colorado FWS wage area to the Southern Colorado FWS wage area to more accurately describe the geographic coverage of the redefined wage area.

DATES: *Effective Date:* This regulation is effective on June 5, 2000. *Applicability Date:* This regulation applies on the first day of the first applicable pay period beginning on or after June 5, 2000.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins by phone at (202) 606–2848, by FAX at (202) 606–0824, or by email at jdhopkin@opm.gov.

SUPPLEMENTARY INFORMATION: On December 27, 1999, the Office of Personnel Management (OPM) published a proposed rule (64 FR 72292) to remove Eagle, Garfield, Lake, Pitkin, Rio Blanco, and Routt Counties, Colorado, from the Southern and Western Colorado appropriated fund FWS wage area and add them to the Denver FWS wage area as areas of application. We do not conduct wage surveys in areas of application. Instead, we apply the results that we obtain from surveys in the other counties in the applicable wage area. We also proposed to remove Mesa County, CO, from the Southern and Western Colorado FWS wage area and add it to the Utah FWS wage area as an area of application. Finally, we proposed to change the name of the Southern and Western Colorado FWS wage area to Southern Colorado.

Under section 5343 of title 5, United States Code, OPM is responsible for defining FWS wage areas. For this purpose, we follow the regulatory criteria in section 532.211 of title 5, Code of Federal Regulations. The Southern and Western Colorado wage area meets all of the regulatory requirements to remain a separate wage area. About 1,800 FWS employees currently work in this wage area. The wage area's host activity, the United States Air Force Academy, has the capability to host annual local wage surveys. In addition, we find more than sufficient local private industry wage data in local wage surveys of the Southern and Western Colorado wage area to satisfy our regulatory requirements.

We are moving Eagle, Garfield, Lake, Pitkin, Rio Blanco, and Routt Counties to the Denver wage area based on our analysis of the regulatory criteria. The distance criterion for these counties favors the Denver wage area more than the Southern and Western Colorado wage area. The transportation facilities and geographic features criteria for these counties strongly favor the Denver wage area because the most favorable route by road from these counties goes through the present Denver wage area before reaching the Southern and Western Colorado survey area. All the other criteria we studied did not favor one wage area more than another.

For Mesa County, CO, the distance to the closest city criterion favors the Utah wage area, while the distance to the closest host installation criterion favors the Denver wage area. The transportation facilities and geographic features criteria favor the Utah wage area. The kinds and sizes of industry and population criteria also favor the Utah wage area. All of the other criteria we studied had indeterminate findings. Colorado National Monument, located in Mesa County, is administratively in the same National Park Service region as most of the National Parks in Utah. Arches National Park is in the Utah wage area and is just across the State line from Colorado National Monument. We are placing Colorado National Monument in the same wage area as Arches National Park because of the organizational relationships and geographic proximity of National Park Service facilities in this region.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and recommended these changes by consensus. The proposed rule had a 30-day public comment period, during which OPM did not receive any comments.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management amends 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix A to subpart B of part 532 is amended for the State of Colorado by revising the wage area ''Southern & Western Colorado'' to read ''Southern Colorado''.

3. Appendix C to subpart B is amended by revising the wage area listings for the States of Colorado and Utah, to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

Colorado

Denver

Survey Area

Colorado:
Adams
Arapahoe
Boulder
Denver
Douglas
Gilpin
Jefferson
Area of Application. Survey area plus:
Colorado:
Clear Creek
Eagle
Elbert
Garfield
Grand
Jackson
Lake
Larimer
Logan
Morgan
Park
Phillips
Pitkin
Rio Blanco
Routt
Sedgwick
Summit
Washington
Weld
Yuma

Southern Colorado

Survey Area

Colorado:
El Paso
Pueblo
Teller
Area of Application. Survey area plus:
Colorado:
Alamosa
Archuleta
Baca
Bent
Chaffee
Cheyenne
Conejos
Costilla
Crowley
Custer
Delta
Dolores
Fremont
Gunnison
Hinsdale
Huerfano
Kiowa
Kit Carson
Las Animas
Lincoln
Mineral
Montrose
Otero
Ouray
Pitkin
Prowers
Rio Grande
Saguache
San Juan
San Miguel

* * * * *

Utah

Survey Area

Utah:
Box Elder
Davis
Salt Lake
Tooele
Utah
Weber
Area of Application. Survey area plus:
Utah:
Beaver
Cache
Carbon
Daggett
Duchesne
Emery
Garfield
Grand
Iron
Juab
Millard
Morgan
Piute
Rich
San Juan (Only includes the Canyonlands National Park portion.)
Sanpete
Sevier
Summit
Uintah
Wasatch
Washington
Wayne
Colorado:
Mesa
Moffat

* * * * *

[FR Doc. 00–11199 Filed 5–4–00; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI86

Prevailing Rate Systems; Definition of Napa County, CA, to a Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule to add Napa County, California, as an area of application to the Solano, CA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area. This change is necessary because NAF FWS employees will have work stations in Napa County, and Napa County was not previously an NAF wage area.

DATES: *Effective Date:* This regulation is effective on June 5, 2000.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins, (202) 606–2848, FAX: (202) 606–0824, or email *jdhopkin@opm.gov.*

SUPPLEMENTARY INFORMATION: On November 15, 1999, the Office of Personnel Management (OPM) published an interim rule (64 FR 61769) to redefine the Solano, California, nonappropriated fund (NAF) Federal Wage System (FWS) wage area by adding Napa County, CA, as an area of application. Under section 5343 of title 5, United States Code, OPM is responsible for defining FWS wage areas. For this purpose, we follow the regulatory criteria in section 532.219(b) of title 5, Code of Federal Regulations.

The Solano wage area presently has one survey county, Solano County, and two area of application counties, Marin and Sonoma Counties, CA. The Army and Air Force Exchange Service acquired the Yountville Retail Facility located in Napa County and staffed the new activity with approximately eight employees, two of whom are FWS employees. Under 5 CFR 532.219, each NAF wage area ''shall consist of one or more survey areas, along with nonsurvey areas, having nonappropriated fund employees.''

Napa County does not meet the regulatory criteria under 5 CFR 532.219 to be a separate NAF wage area; however, OPM may combine nonsurvey counties with a survey area to form a wage area. Therefore, OPM defined Napa County as an area of application to an existing NAF wage area. The Solano wage survey consists of one survey county, Solano County, and three area of application counties, Marin, Napa, and Sonoma Counties, CA.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and concurred by consensus with this change. The interim rule had a 30-day public comment period, during which OPM did not receive any comments.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule (64 FR 61769) amending 5 CFR part 532 published on November 15, 1999, is adopted as final with no changes.

Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 00–11198 Filed 5–4–00; 8:45 am]

BILLING CODE 6325–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–46–AD; Amendment 39–11714; AD 2000–09–05]

RIN 2120–AA64

Airworthiness Directives; Allison Engine Company AE 3007 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Allison Engine Company AE 3007 series turbofan engines. This AD would require removal of certain cone shafts from service before exceeding new cyclic life limits and replacement with serviceable parts. This amendment is prompted by additional testing and low cycle fatigue (LCF) life analysis that substantiate lower cyclic lives than originally determined. The actions specified by this AD are intended to prevent LCF failure of cone shafts, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective date July 5, 2000.

ADDRESSES: This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294–8180, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Allison Engine Company AE 3007A, AE 3007A1, AE 3007A1/1, AE 3007A1/2, AE 3007A1/3, AE 3007A1P, and AE 3007C turbofan engines was published in the **Federal Register** on October 12, 1999 (64 FR 55196). That action proposed to require the removal of certain cone shafts, P/Ns 23050728 and 23070729, from service prior to the accumulation of new cyclic life limits, depending on engine model.

Comments Received

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Increase Cone Shaft Life Limits for AE 3007A and AE 3007C Engines

The manufacturer requests that the FAA increase the cone shaft life limits for the AE 3007A and AE 3007C engines from 7,500 cycles each to 9,500 cycles and 14,500 cycles respectively. At the time the NPRM was issued, the cone shaft low cycle fatigue analysis for these engines was not available, and the FAA proposed lower, more conservative shaft life limits. The analysis has since been completed and the manufacturer requests that the life limits be increased.

The FAA agrees. The methodology used to determine the lives for these engine models has been approved by the FAA and is consistent with that used to determine critical part lives for other engines already in service (AE 3007A1, AE 3007A1/1, and AE 3007A1/2). Therefore, the cone shaft life limits for the AE 3007A and AE3007C engines should be increased to 9,500 cycles for the AE 3007A engine and to 14,500 cycles for the AE 3007C engine. Accordingly, new paragraphs (a), (b), and (c) in the final rule are substituted for proposed paragraph (a), and the proposed paragraphs (b) through (g) become paragraphs (d) through (i) in the final rule.

Increase Cone Shaft Life Limits for AE 3007A1/3 and AE 3007A1P Engines

One commenter requests that the FAA increase the cone shaft life limits for the AE 3007A1/3 and AE 3007A1P engines from 3,500 cycles and 2,400 cycles, respectively, to 7,500 cycles each. The commenter suggests that the cone shaft life of the AE 3007A1/3 and AE 3007A1P engines should be increased to match those of the AE 3007A1, AE 3007A1/1, and AE 3007A1/2 engines for two reasons:

- The turbomachinery hardware is the same for all the engine models referenced above. The primary difference between the models is the engine control software.
- A significant operational aspect of this group of engines is the ability to easily maintain fleet readiness by changing the engine model with an engine control software change.

The FAA does not agree. When new data from tests or analysis suggests that component low cycle fatigue lives need to be reduced, different approaches may be taken, depending on the circumstances. If there are significant numbers of affected engines in the field (*e.g.* AE 3007A, AE 3007A1, AE 3007A1/1, AE 3007A1/2, and AE 3007C models), a life management program is developed that allows the users some operational flexibility while maintaining an acceptable level of risk for the fleet. If there is a very small number of affected engines in the field, the FAA prefers a life management program structured on the lifing methodology intended for original certification of the engine design. For the AE 3007A1/3 and AE 3007A1P engines, therefore, the FAA has determined to use the original FAA approved lifing methodology.

Increase Cone Shaft Life Limits for AE 3007A3 Engines

One commenter requests that the FAA increase the cone shaft life limits for the AE 3007A3 engines.

The FAA does not agree. This engine model was not included in the NPRM and is beyond the scope of this AD.

Incorrect Model Designation

The NPRM incorrectly specifies the AE 3007A1/P engine. This designation should read ''AE 3007A1P.'' This has been corrected in the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Analysis

There are approximately 598 engines of the affected design in the worldwide fleet. The FAA estimates that 364 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 150 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $3,921 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,703,244.

Regulatory Impact

This rule does not have federalism implications, as defined in Executive Order 13132, because it does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this rule.

For the reasons discussed above, I certify that this action (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–09–05 Allison Engine Company: Amendment 39–11714; Docket 99–NE–46–AD.

Applicability: Allison Engine Company Models AE 3007A, AE 3007A1, AE 3007A1/1, AE 3007A1/2, AE 3007A1/3, AE 3007A1P, and AE 3007C turbofan engines, with cone shafts, part numbers (P/Ns) 23050728 and 23070729, installed. These engines are installed on but not limited to EMBRAER EMB–135 and EMB–145 series and Cessna 750 (Citation X) series airplanes.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent low cycle fatigue failure of cone shafts, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

Removal From Service

(a) For Allison Engine Company model AE 3007A engines, remove cone shafts from service prior to accumulating 9,500 cycles-since-new (CSN) and replace with serviceable parts.

(b) For Allison Engine Company model AE 3007C engines, remove cone shafts from service prior to accumulating 14,500 CSN and replace with serviceable parts.

(c) For Allison Engine Company models AE 3007A1, AE 3007A1/1, and AE 3007A1/2 engines, remove cone shafts from service prior to accumulating 7,500 CSN and replace with serviceable parts.

(d) For Allison Engine Company model AE 3007A1/3 engines, remove cone shafts from service prior to accumulating 3,500 CSN and replace with serviceable parts.

(e) For Allison Engine Company model AE 3007A1P engines, remove cone shafts from service prior to accumulating 2,400 CSN and replace with serviceable parts.

New Life Limits

(f) Paragraphs (a), (b), (c), (d) and (e) of this AD establish new, lower life limits for cone shafts, P/Ns 23050728 and 23070729.

(g) Except for the provisions of paragraph (h) of this AD, no cone shafts, P/Ns 23050728 and 23070729, may remain in service exceeding the life limits established in paragraphs (a), (b), (c), (d) and (e) of this AD.

Alternative Method of Compliance

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago ACO.

Ferry Flights

(i) No special flight permits will be issued.

Effective Date

(j) This amendment becomes effective on July 5, 2000.

Issued in Burlington, Massachusetts, on April 27, 2000.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 00–11177 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–02–AD; Amendment 39–11708; AD 2000–08–22]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters Inc. Model 369D, 369E, 500N, and 600N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to MD Helicopters Inc. (MDHI) Model 369D, 369E, 500N, and 600N helicopters with certain analog/digital turbine outlet temperature (TOT) indicators installed. This action requires repetitive calibration testing of the TOT indicating system and corrective actions if necessary. This amendment is prompted by seven reports of erroneous TOT readings and two reports of incorrect wiring harness terminal lugs on the thermocouple wiring. The actions specified in this AD are intended to prevent an erroneous TOT indication, damage to critical engine components, loss of engine power, and a subsequent forced landing.

DATES: Effective May 22, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 22, 2000.

Comments for inclusion in the Rules Docket must be received on or before July 5, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2000-SW–02, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov.

The service information referenced in this AD may be obtained from MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615–GO48, Mesa, Arizona 85215–9797, telephone 1–800–388–3378 or 480–346–6387, datafax 480–346–6813. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elizabeth Bumann, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5265; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: This amendment adopts a new airworthiness directive (AD) applicable to MDHI Model 369D, 369E, 500N, and 600N helicopters with certain analog/digital TOT indicators installed. This action requires repetitive testing of the TOT indicating system to verify correct calibration and to take corrective actions if necessary. This amendment is prompted by seven reports of erroneous TOT readings, up to 100 degrees Celsius low. This amendment is also prompted by two reports of incorrect wiring harness terminal lugs on the thermocouple wiring. Reports indicated that some of the TOT readings did not agree with the engine Electronic Control Unit (ECU) and some readings were found to be 4 degrees Celsius to 17 degrees Celsius low. The actions specified in this AD are intended to prevent erroneous TOT indications, which could prevent the flight crew from detecting that an engine temperature limitation has been exceeded. This condition, if not corrected, could result in damage to critical engine components, loss of engine power, and a subsequent forced landing.

The FAA has reviewed MDHI Service Bulletins SB369D–199, SB369E–093, SB500N–019 (for Model 369D, 369E, and 500N helicopters) and SB600N–026 (for Model 600N helicopters), both dated January 11, 2000. These service bulletins describe procedures for calibration testing of the TOT indicating system and corrective actions if necessary. The corrective actions include inspecting TOT wire harness terminal lugs, connector pins, and sockets to verify correct material and installation; retesting the TOT indicating system; and replacing any unairworthy part with an airworthy part. For Model 600N helicopters, Part III of the service bulletin also describes procedures for verifying the electronic control unit (ECU) TOT calibration.

Since an unsafe condition has been identified that is likely to exist or develop on other MDHI model helicopters of these same type designs, this AD is being issued to prevent an erroneous TOT indication, damage to critical engine components, loss of engine power, and a subsequent forced landing. The actions are required to be accomplished in accordance with the service bulletins described previously, except as discussed in the following paragraphs. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the engine, causing a loss of engine power and a subsequent forced landing of the helicopter. Therefore, initial testing of the TOT indicating system to verify correct calibration is required within the next 50 hours time-in-service (TIS) or on or before June 15, 2000, whichever occurs earlier, and this AD must be issued immediately.

This AD is an interim action. The manufacturer has advised that it currently is developing a modification that will permanently address the unsafe condition.

The service bulletins specify certain serial numbered helicopters with the affected analog/digital TOT indicator installed. The FAA has determined that any Model 369D, 369E, 500N, and 600N helicopter may have the analog/digital TOT indicator, part number (P/N) 369D24513–1 or P/N 9A3420, installed, since the helicopter manufacturer has not developed a modification to correct the unsafe condition. Even subsequently manufactured Model 369D, 369E, 500N, and 600N helicopters may have these analog/digital TOT indicators installed.

The service bulletins recommend accomplishing the TOT system calibration test within 100 hours TIS. The FAA has determined that a 100-hour TIS compliance time would not address the unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the test. In light of all these factors, the FAA finds a compliance time within the next 50 hours TIS or on or before June 15, 2000, whichever occurs first, for initiating the required test is an appropriate interval of time that affected helicopters can operate without compromising safety.

Additionally, the FAA has determined that long-term continued operational safety will be better assured by repetitive testing of the TOT indicating system at intervals not to exceed 300 hours TIS, rather than a one-time test, because of reports that the system calibration may shift with service time. A one-time test may not provide the degree of safety assurance necessary to ensure that the TOT indicator is properly calibrated over time.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 566 helicopters will be affected by this proposed AD, that it will take approximately 0.5 work hour to accomplish the test, and that the average labor rate is $60 per work hour. The manufacturer has represented in the service bulletins that parts will be provided at no cost to the operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $16,980, per test cycle for the entire fleet.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact

concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2000–SW–02–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 2000–08–22 MD Helicopters Inc.: Amendment 39–11708, Docket No. 2000–SW–02–AD.

Applicability: Model 369D, 369E, and 500N helicopters, with analog/digital turbine outlet temperature (TOT) indicator, part number (P/N) 369D24513–1, installed; and Model 600N helicopters, with analog/digital TOT indicator, P/N 9A3420, installed; certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent an erroneous TOT indication, damage to critical engine components, loss of engine power, and a subsequent forced landing, accomplish the following:

(a) For Model 369E, 369D, and 500N helicopters: Within the next 50 hours time-in-service (TIS) or on or before June 15, 2000, whichever occurs first; test the TOT indicating system to verify correct calibration in accordance with the Accomplishment Instructions, Part I, of MD Helicopters, Inc. (MDHI) Service Bulletin SB369D–199, SB369E–093, SB500N–019, dated January 11, 2000 (SB). Thereafter, repeat the test at intervals not to exceed 300 hours TIS.

(b) If during any test required by paragraph (a) of this AD the TOT indicator readings for the tester setting temperatures in Table 1, Part I, of the SB are not within the indicator reading range, before further flight, perform the actions in the Accomplishment Instructions, Part I, paragraph (6)(b) of the SB.

(c) For Model 600N helicopters: Within the next 50 hours TIS or on or before June 15, 2000, whichever occurs first; test the TOT indicating system, including the electronic control unit (ECU) TOT sensing system, to verify correct calibration in accordance with the Accomplishment Instructions, Part I, of MDHI SB600N–026, dated January 11, 2000 (SB 600N). Thereafter, repeat the test at intervals not to exceed 300 hours TIS.

(d) If during any calibration test required by paragraph (c) of this AD the TOT indicator readings for the tester setting temperatures in Table 1, Part I, of SB 600N, are not within the indicator reading range, before further flight, perform the actions in the Accomplishment Instructions, Part I, paragraph (7)(b) of SB 600N.

(e) If during any test required by paragraph (c) of this AD the Full Authority Digital Electronic Control (FADEC) maintenance laptop terminal does not indicate ECU TOT within (5 degrees Celsius of the tester setting in Table 1, Part I, of SB 600N, before further flight, perform the actions in the Accomplishment Instructions, Part III, of the SB 600N.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(h) The tests shall be done in accordance with MD Helicopters Inc. Service Bulletin SB369D–199, SB369E–093, SB500N–019 for Model 369D, 369E, and 500N helicopters and Service Bulletin SB600N–026 for Model 600N helicopters, both dated January 11, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615–GO48, Mesa, Arizona 85215–9797, telephone 1–800–388–3378 or 480–346–6387; datafax 480–346–6813. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on May 22, 2000.

Issued in Fort Worth, Texas, on April 18, 2000.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 00–11058 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–99–AD; Amendment 39–11713; AD 2000–07–51]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model 717–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 2000–07–51 that was sent previously to all known U.S. owners and operators of McDonnell Douglas Model 717–200 series airplanes by individual notices. This AD requires coiling and stowing of electrical wires between the glareshield control panel and the Integrated Standby Instrument System; and revising the abnormal procedures of the Procedures section of the Airplane Flight Manual to include procedures for identifying and pulling certain circuit breakers if the altimeter Captain's Primary Flight Display (PFD) data become unreliable. This action is prompted by a report of two incidents in which an intermittent loss of altitude data occurred simultaneously on the Captain's PFD, First Officer's PFD, and the Integrated Standby Instrument System (ISIS) altitude display due to a voltage drop in the power distribution control unit. The actions specified by this AD are intended to prevent loss of all altitude information and subsequent essential navigation data for continued safe flight and landing.

DATES: Effective May 10, 2000, to all persons except those persons to whom it was made immediately effective by emergency AD 2000–07–51, issued April 1, 2000, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 10, 2000.

Comments for inclusion in the Rules Docket must be received on or before July 5, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–99–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Phan, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5342; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On April 1, 2000, the FAA issued emergency AD 2000–07–51, which is applicable to all McDonnell Douglas Model 717–200 series airplanes.

The FAA has received a report of two incidents in which an intermittent loss of altitude data occurred simultaneously on the Captain's Primary Flight Display (PFD), First Officer's PFD, and the Integrated Standby Instrument System (ISIS) altitude display due to a voltage drop in the power distribution control unit. Additional intermittent loss of cockpit indications included the glareshield control panel data, navigation data, flight management computer mismatch annunciation, autopilot disconnect, and autothrottle disconnect. In both cases, the airspeed and attitude indication remained operational. The flights continued on to their destination without further incident. This condition, if not corrected, could result in loss of all altitude information and subsequent essential navigation data for continued safe flight and landing.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 717–34A0002, dated March 30, 2000, which describes procedures for coiling and stowing of electrical wires between the glareshield control panel and the ISIS.

The FAA also has reviewed and approved Boeing Interim Operating Procedure (IOP) 2–17, dated March 31, 2000, which describes procedures for identifying and pulling certain circuit breakers if the altimeter primary flight display data (PFD) become unreliable.

Explanation of Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued emergency AD 2000–07–51 to prevent loss of all altitude information and subsequent essential navigation data for continued safe flight and landing. The AD requires coiling and stowing of electrical wires between the glareshield control panel and the Integrated Standby Instrument System; and revising the abnormal procedures of the Procedures section of the Airplane Flight Manual to include procedures for identifying and pulling certain circuit breakers if the altimeter PFD data become unreliable. The actions are required to be accomplished in accordance with the alert service bulletin and IOP previously described.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this AD effective in less than 30 days.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on April 1, 2000, to all known U.S. owners and operators of McDonnell Douglas Model 717–200 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–99–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–07–51 McDonnell Douglas: Amendment 39–11713. Docket 2000-NM–99-AD.

Applicability: All Model 717–200 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of all altitude information and subsequent essential navigation data for continued safe flight and landing, accomplish the following:

(a) Prior to further flight, coil and stow the electrical wires between the glareshield control panel and the Integrated Standby Instrument System in accordance with Boeing Alert Service Bulletin 717–34A0002, dated March 30, 2000.

(b) Prior to further flight, revise the abnormal procedures of the Procedures section of the FAA-approved Airplane Flight Manual (AFM) to include procedures for identifying and pulling certain circuit breakers. This must be accomplished by inserting Boeing Interim Operating Procedure 2–17, dated March 31, 2000, into the AFM.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 717–34A0002, dated March 30, 2000; and Boeing Interim Operating Procedure 2–17, dated March 31, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 10, 2000, to all persons except those persons to whom it was made immediately effective by emergency AD 2000–07–51, issued on April 1, 2000, which contained the requirements of this amendment.

Issued in Renton, Washington, on April 27, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11059 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–30]

Amendment to Class E Airspace; Albion, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Albion Municipal Airport, Albion, NE. The FAA has developed Global Positioning System (GPS) Runway (RWY) 15 and GPS RWY 33 Standard Instrument Approach Procedures (SIAPs) to serve Albion Municipal Airport, NE. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the GPS RWY

15 and GPS RWY 33 SIAPs in controlled airspace.

In addition, a minor revision to the Airport Reference Point (ARP) and Alaby NDB coordinates is included in this document.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing GPS RWY 15, GPS RWY 33, revise the ARP and NDB coordinates and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, August 10, 2000.

Comments for inclusion in the Rules Docket must be received on or before June 15, 2000.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 99–ACE–30, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 15 and GPS RWY 33 SIAPs to serve the Albion Municipal Airport, NE. The amendment to Class E airspace at Albion, NE, will provide additional controlled airspace at and above 700 feet AGL in order to contain the SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules (IFR). The amendment at Albion Municipal Airport, NE, will provide additional controlled airspace for aircraft operating under IFR. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G, dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received with the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–ACE–30.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subject in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation

Administration Order 7400.9G Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Albion, NE [Revised]

Albion Municipal Airport, NE
(Lat. 41°43′43″N., long. 98°03′21″W.
Alaby NDB
(Lat. 41°43′47″N., long. 98°03′10″W.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Albion Municipal Airport and within 2.6 miles each side of the 159° bearing from the Alaby NDB extending from the 6.5-mile radius to 7 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on April 21, 2000.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 00–11317 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–6]

Establishment of Class E Airspace; Salem, MO

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace area at Salem, MO. Area Navigation (RNAV) Runway (RWY) 17, RNAV RWY 35 and Omnidirectional Range (VOR)–A Standard Instrument Approach Procedures (SIAPs) have been developed to serve Salem Memorial Airport, Salem, MO. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate aircraft executing these SIAPs. This action establishes controlled airspace at Salem, MO for aircraft executing the SIAPs at the Salem Memorial Airport.

EFFECTIVE DATE: 0901 UTC August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION:

History

On March 10, 2000, the FAA proposed to amend part 71 of Title 14 of the Federal Regulations (14 CFR part 71) by establishing Class E airspace area at Salem, MO (65 FR 12957). The proposed action will provide controlled airspace to accommodate aircraft executing the RNAV RWY 17, RNAV RWY 35 and VOR–A SIAPs.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G, dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of Title 14 of the Federal Regulations (14 CFR part 71) establishes Class E airspace area at Salem, MO, by providing controlled airspace for aircraft executing the RNAV RWY 17, RNAV RWY 35 and VOR–A SIAPs. The area will be depicted on appropriated aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routing matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 10, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 Salem, MO [New]

Salem Memorial Airport, MO
(Lat. 37°36′55″N., long. 91°36′16″W.)
Maples VORTAC
(Lat. 37°35′27″N., long. 91°47′19″W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Salem Memorial Airport, and within 1.1 miles each side of the Maples VORTAC 080° radial extending from the 6.3-mile radius of the Salem Memorial Airport to .2 miles east of the Maples VORTAC.

* * * * *

Issued in Kansas City, MO on April 25, 2000.

Richard L. Day,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 00–11318 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket Nos. 27065, 25148 and 26620; Amdt. No. 121–276]

RIN 2120–AG74

Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment; correction.

SUMMARY: This document contains a correction to the final rule, published in

the **Federal Register** on April 10, 2000 (65 FR 18886). That final rule corrects FAA office addresses listed in the Code of Federal Regulations regarding Drug Testing Programs and Alcohol Misuse Prevention Programs. The intended effect of this action is to ensure that the regulated public has correct information regarding FAA office addresses.

DATES: This correction is effective April 10, 2000.

FOR FURTHER INFORMATION CONTACT: Ralph Timmons, (202) 267–8442.

Correction of Publication

In final rule FR Doc. 00–8362, beginning on page 18886 in the **Federal Register** issue of April 10, 2000, make the following corrections:

1. On page 18886, in column 3, in the heading section, beginning on line 5, correct the amendment number to read, ''Amendment No. 121–276''.

Issued in Washington, DC, on April 28, 2000.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 00–11164 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 99F–5111]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of acid-catalyzed condensation reaction products of branched 4-nonylphenol, formaldehyde, and 1-dodecanethiol for use as an antioxidant in adhesives, pressure-sensitive adhesives, and repeated-use rubber articles intended for use in contact with food. This action is in response to a petition filed by Goodyear Tire & Rubber Co.

DATES: This rule is effective May 5, 2000. Submit written objections and requests for a hearing by June 5, 2000.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the**Federal Register** of December 2, 1999 (64 FR 67575), FDA announced that a food additive petition (FAP 0B4703) had been filed by Goodyear Tire & Rubber Co., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of acid-catalyzed condensation reaction products of branched 4-nonylphenol, formaldehyde, and 1-dodecanethiol for use as an antioxidant in adhesives, pressure-sensitive adhesives, and repeated-use rubber articles intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and (3) that the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 0B4703 (64 FR 67575). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before June 5, 2000, file with the Dockets Management Branch (address above) written objection thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) by revising the entry for ''Alkylthiophenolics'' to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * * * *	
Alkylthiophenolics:	
1. Acid-catalyzed condensation reaction products of 4-nonylphenol, formaldehyde, and 1-dodecanethiol (CAS Reg. No. 164907–73–7).	For use only: 1. At levels not to exceed 2 percent by weight of adhesives complying with § 175.105 of this chapter, of pressure-sensitive adhesives complying with § 175.125 of this chapter, and of rubber articles complying with § 177.2600 of this chapter.
2. Acid-catalyzed condensation reaction products of branched 4-nonylphenol, formaldehyde, and 1-dodecanethiol (CAS Reg. No. 203742–97–6).	2. Do.
* * * * * * *	

Dated: April 25, 2000.

L. Robert Lake,

Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 00–11201 Filed 5–4–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–080–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is approving, with certain exceptions, amendments to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of the revisions to the West Virginia Surface Mining Reclamation Regulations. The amendments are intended to improve the operational efficiency of the West Virginia program.

EFFECTIVE DATE: May 5, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

The Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the January 21, 1981, **Federal Register** at 46 FR 5915–5956. Subsequent actions concerning the West Virginia program and previous amendments are codified at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

By letter dated May 11, 1998 (Administrative Record Number WV 1086), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to its approved regulatory program pursuant to the Federal regulations at 30 CFR 732.17(b). The amendment consists of revisions to CSR 38–2, the State's Surface Mining Reclamation Regulations, which the Governor signed on April 12, 1998.

We published the proposed rulemaking in the **Federal Register** on June 15, 1998 (63 FR 32632). The public comment period closed on July 15, 1998. Since no one requested an opportunity to speak at a public hearing, we did not hold a hearing.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendments to the West Virginia regulatory program.

1. CSR 38–2–2 Definitions

West Virginia is amending the definition of ''Coal Remining Operation'' in CSR 38–2–2.25 to mean a coal mining operation on lands which would be eligible for expenditures under section 22–2–4 of the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA). Section 22–2–4(c) provides that lands and water eligible for reclamation are those which were mined for coal or which were affected by the mining, waste banks, coal processing or other coal mining processes, and abandoned or left in an inadequate status prior to August 3, 1977, and for which there is no continuing reclamation responsibility. This language is substantively identical to the corresponding Federal provision in section 404 of SMCRA. Section 22–2–4(c) also includes certain lands for which bond forfeiture proceeds are inadequate to completely reclaim the site, as authorized by section 402(g)(4) of SMCRA. Hence, the State definition is substantively identical to the Federal definition of ''lands eligible for remining'' at 30 CFR 701.5, which provides that the term ''means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4) of the Act.''

The State also is amending the definition of ''Remined Area'' in CSR 38–2–2.102 to mean the area of any coal remining operation. This definition has no precise Federal counterpart, but we find that it is not inconsistent with the Federal definition of ''lands eligible for remining'' at 30 CFR 701.5 or any other SMCRA-related provision. Hence, it can be approved.

2. CSR 38–2–3.14 Removal of Abandoned Coal Refuse Disposal Piles

West Virginia has revised paragraphs a. and b. of subsection 3.14 by replacing the term ''special permit'' with the term ''reclamation contract'' and by replacing ''permit application'' and ''application'' with ''request.'' The State also made numerous other revisions to this subsection. For the reasons set forth below, these revisions need not be discussed here.

Subsection 3.14 authorizes the State to issue reclamation contracts ''solely for the removal of existing abandoned

coal processing waste piles.'' It further provides that, ''if the average quality of the refuse material meets the minimum BTU value standards to be classified as coal, as set forth in ASTM Standard D 388–88, a request which meets all applicable requirements of this section shall be required.'' In addition, subsection 3.14.c. implies that the State may issue a reclamation contract for operations that involve on-site reprocessing of abandoned coal refuse piles.

While we approved previous versions of subsection 3.14, our approval was limited to the removal of abandoned refuse piles that do *not* meet the definition of coal in 30 CFR 700.5. For example, in 1990, at 30 CFR 948.12(k)(4), we disapproved the initial version of subsection 3.14 ''to the extent that it applies to the removal of abandoned coal mine refuse piles where the material being removed meets the definition of coal (ASTM Standard D 388 77).'' 55 FR 21304, 21313–14, May 23, 1990. We based that decision on the definition of ''surface coal mining operations'' in 30 CFR 700.5, which specifically includes ''the extraction of coal from coal refuse piles.'' The term ''extraction'' includes both the removal of coal refuse material that already meets the definition of coal and the on-site reprocessing of coal refuse to separate coal from waste rock and other materials. SMCRA and the Federal regulations do not establish lesser permitting requirements for the extraction of coal from coal refuse piles than they do for other types of remining operations.

Subsection 3.14 is less stringent than SMCRA and less effective than the Federal regulations because it would allow the issuance of a reclamation contract for the removal of coal refuse piles that meet the definition of coal rather than requiring that such operations obtain a standard regulatory program permit for surface coal mining operations as do the Federal regulations. In addition, subsection 3.14.c. is less stringent than SMCRA and less effective than the Federal regulations to the extent that it may be interpreted as authorizing the State to issue a reclamation contract rather than a surface coal mining operations permit for on-site reprocessing operations. As discussed above, under the Federal definition of surface coal mining operations in 30 CFR 700.5, all on-site reprocessing operations that separate coal from other materials in the pile must be regulated as surface coal mining operations.

Therefore, we are not approving subsection 3.14 to the extent that it would apply to the removal of abandoned coal mine refuse piles where, on average, the material to be removed meets the definition of coal in 30 CFR 700.5. In addition, we are not approving subsection 3.14 to the extent that it could be interpreted as applying to the on-site reprocessing of abandoned coal refuse piles.

Otherwise, we take no position on the revisions that West Virginia has made to subsection 3.14. As we stated in 1990, ''the removal, transport and use (without onsite reprocessing) of coal mine refuse which does not meet the definition of 'coal' set forth in 30 CFR 700.5; i.e., ASTM Standard D 388–77, is not subject to regulation [under SMCRA].'' 55 FR 21314, May 23, 1990.

Consistent with this decision, we are requiring that West Virginia amend its program to either: (1) Delete subsection 3.14; or (2) revise subsection 3.14 to clearly specify that its provisions apply only to activities that do not qualify as surface coal mining operations as that term is defined in 30 CFR 700.5; i.e., that subsection 3.14 does not apply to either the removal of abandoned coal mine waste piles that, on average, meet the definition of coal or to the on-site reprocessing of coal mine waste piles. If the State chooses the second option, it should also submit the sampling protocol that will be used to determine whether the refuse piles meet the definition of coal. The sampling protocol must be designed to ensure that no activities meeting the definition of surface coal mining operations escape regulation under the State counterpart to SMCRA and the Federal regulations.

The previous discussion notwithstanding, the removal or reprocessing of any coal refuse pile may qualify for the government-financed construction exemption under section 528(2) of SMCRA. Section 528(2) of SMCRA states that SMCRA shall not apply to the extraction of coal as an incidental part of Federal, State, or local government-financed highway or other construction under regulations established by the regulatory authority. Section 22–3–26(b) of the WVSCMRA contains a similar provision.

The Federal regulations at 30 CFR part 707 provide the standards for implementing SMCRA section 528(2). Essentially, part 707 provides that, to be exempt from regulation as a surface coal mining operation under SMCRA, coal extraction must be a component of a government-financed construction project, and the extraction of coal must be incidental to the construction. CSR 38–2–3.31 is the approved West Virginia program regulation governing government-financed highway or other construction exemptions that are exempt from the provisions of WVSCMRA.

On February 12, 1999 (64 FR 7469–83), we amended the definition of ''government-financed construction'' at 30 CFR 707.5 to provide that government funding of less than 50 percent of a project's costs may qualify if the construction is undertaken as an approved abandoned mine reclamation project under Title IV of SMCRA. We also added 30 CFR 874.17, which establishes requirements and procedures for reclamation projects receiving less than 50 percent government funding. The West Virginia program lacks counterparts to the revised Federal definition of ''government-financed construction'' at 30 CFR 707.5 and the Federal regulations at 30 CFR 874.17. Therefore, at present, the government-financed construction exemption is not available to West Virginia projects with less than 50 percent government financing.

3. CSR 38–2–3.32 Findings—Permit Issuance

Subsection 3.32.d.12 is amended by replacing the reference to former subsection 14.16 with a reference to new section 24, where the performance standards applicable only to remining operations have been relocated. We find this change to be a non-substantive organizational revision that does not render the State program less stringent than SMCRA or less effective than the Federal regulations.

In addition, West Virginia is replacing the phrase ''and prior to August 3, 1977'' with ''would be eligible for expenditures under Section 4, Article 2 of Chapter 22.'' We find that this revision is approvable because it is consistent with the Federal definition of ''lands eligible for remining'' at 30 CFR 701.5, a term that appears in 30 CFR 773.15(c)(13), the Federal counterpart to the West Virginia provision.

West Virginia also proposes to add subsection 3.32.g to read as follows: ''The prohibition of subsection c. shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface mine eligible for remining held by the applicant.'' The Federal counterpart to this new provision is 30 CFR 773.15(b)(4). However, the State rule lacks a counterpart to the restrictions that 30 CFR 773.15(b)(4) places on the exception. Therefore, the proposed amendment is less effective than 30 CFR 773.15(b)(4) and it cannot be approved. In addition, the State provision is less effective than its Federal counterpart because it does not

define the meaning and limits of the term ''unanticipated event or condition'' as does 30 CFR 773.15(b)(4)(ii).

4. CSR 38–2–14.14.a.1. Disposal of Excess Spoil

This subdivision is amended by adding language to allow excess spoil to be deposited on abandoned mine lands and/or bond forfeiture sites under a reclamation contract pursuant to Section 28 of WVSCMRA. The new language requires that the permittee obtain right of entry and any necessary approvals from the appropriate environmental agencies or other agencies. The WVDEP stated that these changes will allow the director to issue no-cost reclamation contracts to a permittee to reclaim abandoned and forfeited sites.

We recently approved an amendment to the Pennsylvania program that authorizes the placement of excess spoil on AML reclamation project sites (64 FR 14610, March 26, 1999). The Pennsylvania amendment authorizes the use of excess spoil from a valid, permitted coal mining operation for the reclamation of an abandoned, unreclaimed area outside the permit area. As a prerequisite for approval, we informed Pennsylvania that the Commonwealth must either handle these projects as traditional Federally funded AML reclamation projects or identify the administrative, financial, contractual and environmental safeguards that will be applied to these ''no-cost'' government-financed construction contracts. In addition, Pennsylvania also needed to show how the safeguards would ensure the same level of environmental protection as that provided by traditional Federally funded AML reclamation projects.

The same standard applies to West Virginia. That is, West Virginia must either limit excess spoil disposal to traditional Federally funded AML reclamation projects or identify alternative procedures that will afford the same level of protection.

The proposed amendment at CSR 38–2–14.14.a.1. provides that the disposal of excess spoil on abandoned mine lands must be conducted under a reclamation contract pursuant to section 22–3–28 of WVSCMRA and ''this rule.'' The meaning of the phrase ''this rule'' is unclear. While it could mean all of subsection 14.14, this is unlikely, because 14.14.c. limits placement of excess spoil to permitted areas and approved AML reclamation projects. If these restrictions are meant to apply to projects authorized under 14.14.a.1., then the new provision is superfluous, since it would not expand the universe of sites eligible for excess spoil disposal. In particular, the authorization to place excess spoil on bond forfeiture sites would be meaningless, since it would be limited to bond forfeiture sites that are also eligible for and approved for AML reclamation funding—and such sites are already candidates for excess spoil placement pursuant to subsection 14.14.c. Therefore, we believe the phrase ''this rule'' means subsection 14.14.a. Consequently, our analysis must focus on the issue of whether section 22–3–28 of WVSCMRA and subsection 14.14.a. of the regulations provide safeguards that will ensure the same level of environmental protection as that provided by Federally funded AML reclamation projects.

In authorizing the issuance of ''no cost'' contracts for reclamation projects, section 22–3–28(e) of WVSCMRA provides no specific safeguards for the disposal of excess spoil on abandoned mine lands. CSR 38–2–14.14.a. contains some safeguards, such as the requirement that acid and toxic-forming materials be covered with nonacid, nontoxic and noncombustible materials (14.14.a.5.) and the requirements for slope protection (14.14.a.6.) and postmining land use suitability (14.14.a.7.). However, there is no meaningful performance incentive, such as the requirement to file a bond, to ensure completion of reclamation in accordance with the contract. And neither the statute nor the regulations provide an alternate guarantee that the necessary reclamation will be completed, such as commitment of AML moneys or other sources of funding. Because section 22–3–28 of WVSCMRA and CSR 38–2–14.14.a. do not contain safeguards that will ensure the same level of environmental protection as that provided by a permit and bond or by Federally funded AML reclamation projects, we are not approving CSR 38–2–14.14.a.1. at this time.

We recommend that the WVDEP identify the specific provisions of section 22–3–28 of the WVSCMRA and CSR 38–2–14.14 that apply to the placement of excess spoil on abandoned mine lands. The WVDEP should also clarify that spoil may only be placed on sites eligible for reclamation under the abandoned mine land reclamation program and listed on the abandoned mine land inventory. The program also must require that excess spoil placed on bond forfeiture sites be placed in accordance with the reclamation plan of the forfeited permit.

In short, the WVDEP must provide safeguards that will ensure the same level of environmental protection as that provided by a permit and bond issued under the State's approved regulatory program, or as provided by a Federally funded AML reclamation project. When these safeguards are developed, we encourage the WVDEP to resubmit its amendment concerning the disposal of excess spoil on abandoned mine lands and bond forfeiture sites for our review. At that time, we will also reconsider the proposed amendments to sections 22–3–3(u)(2)(3) and 22–3–28(e) of WVSCMRA to the extent that they authorize reclamation of abandoned mine lands and bond forfeiture sites under no-cost reclamation contracts.

5. Redesignation of CSR 38–2–14.16 Through 38–2–14.19

As discussed in Finding 9, West Virginia is incorporating CSR 38–2–14.16 into new section CSR 38–2–24. As a consequence of this action, CSR 38–2–14.17 is redesignated as CSR 38–2–14.16; CSR 38–2–14.18 is redesignated as CSR 38–2–14.17; and CSR 38–2–14.19 is redesignated as CSR 38–2–14.18. These are non-substantive organizational changes that do not render the West Virginia program less effective than the Federal regulations.

6. CSR 38–2–14.18 Disposal of Noncoal Mine Wastes

West Virginia is deleting subsection 14.18.d. (formerly codified as subsection 14.19.d.) because it conflicts with CSR 38–2–8.2.e., which was added during the last legislative session. In our approval of CSR 38–2–8.2.e., we noted that 30 CFR 948.16(ttt) continued to require that the State regulations at CSR 38–2–14.19.d. (now 14.18.d.) concerning the windrowing of timber be amended. We also noted that West Virginia indicated that 38–2–14.19.d. (now 14.18.d.) would be deleted in a future rulemaking session, which would satisfy this requirement. *See* 64 FR 6201, 6209 (February 9, 1999).

For this reason, we find that the State's deletion of CSR 38–2–14.18.d. does not render the West Virginia program less effective than the Federal regulations. In addition, we are removing 30 CFR 948.16(ttt) for the same reason.

7. CSR 38–2–22.5.l Removal of Abandoned Coal Refuse Piles

Subsection 22.5.l applies to the removal or reprocessing of abandoned coal refuse piles under CSR 38–2–3.14 and subsection 22–3–28(d) of WVSCMRA. West Virginia is revising this subsection by deleting the term ''special permit'' and replacing it with ''reclamation contract'' to more accurately reflect actual practice. Therefore, we find that this change is

non-substantive. However, as discussed in Finding 2, we are not approving CSR 38–2–3.14 to the extent that it applies to the on-site reprocessing of any abandoned coal mine waste piles or to the complete or partial removal of abandoned refuse piles that meet the definition of coal in 30 CFR 700.5.

8. CSR 38–2–23 Special Authorization for Coal Extraction as an Incidental Part of Development of Land for Commercial, Residential, or Civic Use

This new section would allow special authorization for coal extraction as an incidental part of development of land for commercial, residential, industrial, or civic use. The section contains provisions for applicant information, site development and sampling information; provisions for approval of a notice of intent for coal extraction as an incidental part of development of land for commercial, residential, or civic use; performance standards; expiration of a notice of intent coal extraction as an incidental part of development; escrow release; notice on site; and public records. The WVDEP explained that the new language is intended to implement new statutory provisions. The new provisions (subsections 22–3–28 (a) through (c) of WVSCMRA) allow the director to apply lesser standards to coal extraction conducted as an incidental part of development of land for commercial, residential, industrial, or civic use.

On February 9, 1999 (64 FR 6204, Finding 12), we found subsections 22–3–28 (a) through (c) of WVSCMRA to be less stringent than sections 528 and 701(28) of SMCRA and therefore unapprovable. As noted in that finding, the Interior Board of Surface Mining Appeals (IBSMA), which was subsequently incorporated into the Interior Board of Land Appeals (IBLA), twice ruled that ''the extraction of coal as an incidental part of privately financed construction is not an activity excluded as such from the coverage of the * * * regulatory program.'' *See James Moore,* 1 IBSMA 216 (1979) and *Gobel Bartley,* 4 IBSMA 219 (1992). In addition, we have previously determined that subsections 22–3–28 (a) through (c) of WVSCMRA are inconsistent with SMCRA. *See* Finding 14.4 at 46 FR 5915, 5924 (January 21, 1981). Therefore, we are not approving CSR 38–2–23. Furthermore, we are requiring that West Virginia revise its regulations to remove CSR 38–2–23.

9. CSR 38–2–24 Performance Standards Applicable Only to Remining Operations

This section is largely new. However, subsections 24.1.a. through 24.1.l. were formerly codified as subsections 14.16.a. through 14.16.l, subsection 24.2.a. was previously codified as subsection 14.16.m, and subsection 24.3 was previously codified as subsection 14.16.n. Because the redesignated subsections are otherwise unchanged, we find that the redesignation does not render the State program less effective than SMCRA and the Federal regulations.

We also note that redesignated subsection 24.3 concerns only the standards for issuance of National Pollutant Discharge Elimination System (NPDES) permits for remining operations. We have no jurisdiction over the NPDES program. Therefore, subsection 24.3 is not subject to review and approval under SMCRA and we do not consider it to be part of the State's approved SMCRA regulatory program.

New subsection 24.2.b. provides that the revegetation responsibility period for remining operations must be not less than two growing seasons after the last year of augmented seeding, fertilizing, irrigation or other work. The counterpart Federal regulations at 30 CFR 816.116(c)(2)(ii) provide that the period of responsibility must be two full years for lands eligible for remining. Since the State's rules at CSR 38–2–2.57 define growing season to mean one year, the proposed responsibility period of two growing seasons is equivalent to, and therefore no less effective than, the Federal regulations at 30 CFR 816.116(c)(2)(ii).

New subsection CSR 38–2–24.4 provides that bond release for remining operations must comply with CSR 38–2–12.2, with the exception of subdivision 12.2.e. for Phase I, II, or III release. If all other requirements of subsection 12.2 are satisfied, then the Director may approve a request for Phase I, II, or III release if the quality of untreated water discharging from the site is equal to or better than the pre-remining water quality discharged from the site. In its submittal of this amendment, the WVDEP stated that this change will allow for the release of the land reclamation bond if the post-remining water quality discharging from the site is equal to or better than pre-remining water quality.

Under section 301(p) of the Clean Water Act, the State may issue an NPDES permit which modifies the pH, iron, and manganese standards for pre-existing discharges from the remined area or affected by a qualifying remining operation. However, the permit may not allow the pH, iron, or manganese levels of any discharge to exceed the levels being discharged from the remined area before the advent of the coal remining operation.

But section 301(p) does not apply to all remining operations. Instead, it defines ''coal remining operation'' to mean a coal mining operation which begins after February 4, 1987 (the date of enactment of section 301(p)), at a site on which coal mining was conducted before August 3, 1977 (the effective date of SMCRA). The U.S. Environmental Protection Agency (EPA) declined to concur with the approval of subsection CSR 38–2–24.4 because that subsection would allow use of the section 301(p) standards for remining operations that began prior to February 4, 1987, and for sites on which coal mining was originally conducted on or after August 3, 1977.

The Federal regulations at 30 CFR 816/817.42 provide that discharges of water from areas disturbed by surface mining activities must be made in compliance with all applicable State and Federal water quality laws and regulations. Because CSR 38–2–24.4 does not comply with this requirement, it is less effective than the Federal rules. Accordingly, we are not approving this provision. We also are requiring that West Virginia further amend its regulations to remove CSR 38–2–24.4.

IV. Summary and Disposition of Comments

Federal Agency Comments

On June 12, 1998, we asked for comments from various Federal agencies who may have an interest in the West Virginia amendment (Administrative Record Number WV–1088). We solicited comments in accordance with section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations. The Department of the Army, U.S. Army Corps of Engineers responded and stated that the changes are satisfactory to the Corps.

The U.S. Department of Labor, Mine Safety and Health Administration (MSHA) provided the following comments. MSHA expressed concern with section 38–2–24.1.g. which allows coal processing and underground development waste embankments in mined-out areas to have a long-term slope stability safety factor of 1.3. MSHA stated that a safety factor of 1.5 is required by 30 CFR 77.215(h).

The Federal regulations at 30 CFR 77.215(h), to which MSHA referred in its comment, requires a static safety

factor of 1.5 for refuse piles. Refuse piles are structures that are built above the ground level where no material previously existed, or are built upon previously existing built-up structures. The Federal regulations for impoundments (30 CFR 816.49), excess spoil disposal (30 CFR 816.71), durable rock fills (30 CFR 816.73), and coal mine waste disposal areas (30 CFR 816.81) all provide for static safety factor of 1.5. These are all structures that are constructed above the ground level, where no material previously existed. However, the stability of materials that will be returned to or be used to backfill the mined out area as provided by 30 CFR 816.102 can achieve a lesser static safety factor of 1.3. 30 CFR 816.102(e) provides that the disposal of coal processing waste and underground development waste in the mined-out area shall be in accordance with sections 816.81 and 816.83, except that a long-term static safety factor of 1.3 shall be achieved. The higher 1.5 static safety factor standard is only required where refuse or waste will be piled into above-ground structures. The lesser 1.3 static safety factor standard is required where refuse or waste will be used to backfill mined out areas, or to bring the land back to its approximate original contour. The West Virginia standard at section 38–2–24.1.g. applies only to the disposal of waste in previously mined out areas. Therefore, the static safety standard of 1.3 is appropriate, and no less effective than the Federal regulations at 30 CFR 816.102(e) which provide the same standard for waste disposal in a mined-out area.

The National Park Service requested that we review the proposed changes carefully to examine the full implication of the revisions on the overall effectiveness of the West Virginia program. The National Park Service also stated that, while the proposed revisions do not alter provisions pertinent to section 522(e)(3) of SMCRA, they nonetheless may affect the level of protection afforded various areas under this section of SMCRA. Section 522(e)(3) provides that, subject to valid existing rights, no surface coal mining operations except those which exist on August 3, 1977, may be permitted if the operations would adversely affect any publicly owned park or place included in the National Register of Historic Places, unless the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or the historic site jointly approve these operations. In response to the Park Service's concerns, we note that the amendment does not in any way compromise the protections afforded under section 522(e)(3) of SMCRA.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(i) and (ii), OSM is required to solicit comments and obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). By letter dated June 12, 1998, we requested comments and concurrence from EPA on the State's proposed amendment of May 14, 1998 (Administrative Record Number WV–1089).

By letter dated November 29, 1999 (Administrative Record Number WV–1141), the EPA provided comments on the proposed amendment. In addition, the EPA stated that it could not concur with the approval of CSR 38–2–24.4 because that subsection appears to allow bond release for sites on which remining began before February 4, 1987, and/or for sites mined after August 3, 1977, even if the discharges from those sites do not meet applicable effluent limitations and water quality standards. The EPA noted that such a provision would not comply with section 301(p) of the Clean Water Act, 33 U.S.C. 1311(p).

As discussed in Finding 9, we are not approving CSR 38–2–24.4 because it would allow issuance of modified NPDES permits for operations that do not meet the criteria established in section 301(p). To be eligible under section 301(p), a remining operation must be a site on which coal mining was conducted before the effective date of SMCRA (August 3, 1977), and the remining operation must begin after the date of the enactment of section 301(p) of the Clean Water Act (February 4, 1987). Therefore, as submitted, CSR 38–2–24.4 is less effective than 30 CFR 816/817.42 and we are not approving it.

The EPA supported CSR 38–2–3.14, which concerns no-cost contracts for the removal of abandoned coal refuse piles. However, the EPA noted that CSR 38–2–3.14.b.4.E., which requires that all necessary permits be obtained from environmental agencies, must be interpreted as including NPDES permits for stormwater discharges from the refuse removal operation sites, where applicable.

As discussed in Finding 2, we are not approving subsection 3.14 to the extent that it would apply to the removal of abandoned coal mine refuse piles where, on average, the material to be removed meets the definition of coal in 30 CFR 700.5. In addition, we are not approving subsection 3.14 to the extent that it could be interpreted as applying to the on-site reprocessing of abandoned coal refuse piles.

We determined that subsection 3.14 is less stringent than SMCRA and less effective than the Federal regulations because it would allow the issuance of a reclamation contract for the removal of coal refuse piles that meet the definition of coal rather than requiring that such operations obtain a standard regulatory program permit for surface coal mining operations as do the Federal regulations. We also determined that subsection 3.14.c. is less stringent than SMCRA and less effective than the Federal regulations to the extent that it may be interpreted as authorizing the State to issue a reclamation contract rather than a surface coal mining operations permit for on-site reprocessing operations. Under the Federal definition of surface coal mining operations in 30 CFR 700.5, all on-site reprocessing operations that separate coal from other materials in the pile must be regulated as surface coal mining operations.

We took no position on the other revisions that West Virginia has made to subsection 3.14. As we stated in 1990, ''the removal, transport and use (without onsite reprocessing) of coal mine refuse which does not meet the definition of 'coal' set forth in 30 CFR 700.5; i.e., ASTM Standard D 388–77, is not subject to regulation [under SMCRA].'' 55 FR 21314, May 23, 1990.

The EPA also stated that CSR 38–2–24.3 correctly provides that remining operations that begin after February 4, 1987, on a site that was mined prior to August 3, 1977, may qualify for less stringent effluent limits under section 301(p) of the Clean Water Act. The EPA explained that, subject to certain conditions, section 301(p) allows replacement of most effluent limits in 40 CFR 434 with less stringent, best professional judgement (BPJ) effluent limits if the applicant can demonstrate that the post-remining discharge quality will be better than, or at least equal to, the pre-remining discharge quality. As noted in Finding 9, subsection 24.3 concerns only the issuance of NPDES permits. Therefore, it is not subject to review and approval under SMCRA and we do not consider it to be part of the State's approved SMCRA regulatory program.

Public Comments

We received no comments from the public.

V. Director's Decision

Based on the findings in Part III of this preamble, we are approving the proposed amendments to the West Virginia program, except as noted below.

We are not approving CSR 38–2–3.14 to the extent that it would apply to the removal of abandoned coal mine refuse piles where, on average, the material to be removed meets the definition of coal in 30 CFR 700.5. In addition, we are not approving this subsection to the extent that it could be interpreted as applying to the on-site reprocessing of abandoned coal refuse piles. We take no position on subsection 3.14 to the extent that it may concern the removal, transport and use (without onsite reprocessing) of coal mine refuse which does not meet the definition of ''coal'' in 30 CFR 700.5; such activities are not subject to regulation under SMCRA.

In addition, we are requiring that West Virginia amend its program to either: (1) delete subsection 3.14; or (2) revise subsection 3.14 to clearly specify that its provisions apply only to activities that do not qualify as surface coal mining operations as that term is defined in 30 CFR 700.5; i.e., that subsection 3.14 does not apply to either the removal of abandoned coal mine waste piles that, on average, meet the definition of coal or to the on-site reprocessing of coal mine waste piles. If the State chooses the second option, it should also submit the sampling protocol that will be used to determine whether the refuse piles meet the definition of coal. The sampling protocol must be designed to ensure that no activities meeting the definition of surface coal mining operations escape regulation under the State's SMCRA regulatory program.

We are not approving CSR 38–2–3.32.g., 38–2–14.14.a.1., 38–2–23, and 38–2–24.4. In addition, we are requiring that West Virginia remove CSR 38–2–23 and 38–2–24.4.

We are removing 30 CFR 948.16(ttt).

The Federal regulations at 30 CFR part 948 codifying decisions concerning the West Virginia program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 23, 2000.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 948—WEST VIRGINIA

1. The authority citation for part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 948.12 is amended by revising the section heading and adding a new paragraph (a) to read as follows:

§ 948.12 State statutory, regulatory, and proposed program amendment provisions not approved.

(a) We are not approving the following provisions of the proposed program amendment that West Virginia submitted on May 11, 1998:

(1) CSR 38–2–3.14, to the extent that it could be interpreted as applying to the on-site reprocessing of abandoned coal mine waste piles or to the extent that it would apply to the removal of abandoned coal refuse piles where, on average, the material to be removed meets the definition of coal in 30 CFR 700.5.

(2) CSR 38–2–3.32.g., which concerns unanticipated events or conditions.

(3) CSR 38–2–14.14.a.1., which concerns placement of excess spoil outside the permit area.

(4) CSR 38–2–23, which concerns coal extraction as part of land development activities.

(5) CSR 38–2–24.4, which concerns water quality standards for bond release.

* * * * *

3. Section 948.15 is amended by revising the introductory text, the table headings, and by adding a new entry to the table in chronological order by date

of final rule publication to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

The following table lists the dates that West Virginia submitted proposed amendments to OSM, the dates when OSM published final rules approving all or portions of those amendments in the **Federal Register**, and the State statutory or regulatory citations for those amendments (or a brief description of the amendment). The amendments appear in order of the date of publication of the final rules announcing OSM's decisions on the amendments. The preambles to those final rules identify and discuss any assumptions underlying approval, any conditions placed on the approval, and any exceptions to the approval.

Original amendment submission date	Date of publication of final rule	Citation/description of approved provisions
*	*	* * * * * * *
May 11, 1998	May 5, 2000	West Virginia regulations at CSR 38–2–2.25; 2.102; 3.32.d.12; 14.16 through 14.19; 22.5.1; 24 (except 24.4).

4. Section 948.16 is amended by removing and reserving paragraph (ttt) and by adding paragraphs (nnnn), (oooo), and (pppp) to read as follows:

§ 948.16 Required regulatory program amendments.

* * * * *

(nnnn) By July 5, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to either delete CSR 38–2–3.14 or revise CSR 38–2–3.14 to clearly specify that its provisions apply only to activities that do not qualify as surface coal mining operations as that term is defined in 30 CFR 700.5; i.e., that subsection 3.14 does not apply to either the removal of abandoned coal mine waste piles that, on average, meet the definition of coal or to the on-site reprocessing of coal mine waste piles. If the State chooses the second option, it should also submit the sampling protocol that will be used to determine whether the refuse piles meet the definition of coal. The sampling protocol must be designed to ensure that no activities meeting the definition of surface coal mining operations escape regulation under the State's SMCRA regulatory program.

(oooo) By July 5, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to remove CSR 38–2–23.

(pppp) By July 5, 2000, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to remove CSR 38–2–24.4.

[FR Doc. 00–10972 Filed 5–4–00; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF EDUCATION

34 CFR Part 674

Federal Perkins Loan Program; Correction of Effective Date

AGENCY: Department of Education.

ACTION: Final regulations; correction of effective date.

SUMMARY: On April 6, 2000 technical amendments to regulations governing the Federal Perkins Loan Program were published in the **Federal Register** (65 FR 18001). This document corrects the effective date of May 8, 2000 announced. The correct effective date for the technical amendments is July 1, 2000. These technical amendments are to take effect immediately following the incorporation of previous amendments to 34 CFR part 674 published on October 28, 1999 (64 FR 58298–58315) with an effective date of July 1, 2000.

DATES: The regulations amending 34 CFR part 674 published on April 6, 2000 (65 FR 18001–18003) are effective July 1, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Vanessa Freeman, Program Specialist, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3045, Regional Office Building 3, Washington, DC 20202–5449. Telephone: (202) 708–8242. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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(Catalog of Federal Domestic Assistance Number: 84.037 Federal Perkins Loan Program)

List of Subjects in 34 CFR Part 674

Loan programs—education, Reporting and recordkeeping requirements, Student aid.

Dated: May 1, 2000.

Maureen McLaughlin,

Acting Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 00–11230 Filed 5–4–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

36 CFR Part 327

RIN 0710–AA45

Public Use of Water Resources Development Projects Administered by the Chief of Engineers

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (RIN #0710–AA45), which were published in

the **Federal Register** on Friday, February 11, 2000 (65 FR 6896). The regulations relate to the public use of Water Resources Development Projects administered by the Chief of Engineers.

DATES: Effective on May 5, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Austin, Outdoor Recreation Planner, 202–761–1796 (not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections superseded § 327.17 on the effective date and affect advertising at Water Resources Development Projects administered by the Chief of Engineers.

Need for Correction

As originally published on February 11, 2000 (effective date of April 1, 2000), the final regulation prohibits the advertising at Water Resources Development Projects without the written permission by the District Commander. Revised language will allow for greater freedom of speech with reasonable restrictions on time and space. This correction is effective on the date of publication in the **Federal Register**.

List of Subjects in 36 CFR Part 327

Advertising.

PART 327—RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCES DEVELOPMENT PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

Accordingly, 36 CFR part 327 is amended by making the following correcting amendments:

1. The authority citation for Part 327 continues to read as follows:

Authority: 16 U.S.C. 460d; 16 U.S.C. 460l-6a; Sec. 210, Pub L. 90–483, 82 Stat. 746.; 33 U.S.C. 1, 28 Stat. 362.

2. Revise § 327.17 to read as follows:

§ 327.17 Advertisment.

(a) Advertising and the distribution of printed matter is allowed within project land and waters provided that a permit to do so has been issued by the District Commander and provided that this activity is not solely commercial advertising.

(b) An application for such a permit shall set forth the name of the applicant, the name of the organization (if any), the date, time, duration, and location of the proposed advertising or the distribution of printed matter, the number of participants, and any other information required by the permit application form. Permit conditions and procedures are available from the District Commander.

(c) Vessels and vehicles with semipermanent or permanent painted or installed signs are exempt as long as they are used for authorized recreational activities and comply with all other rules and regulations pertaining to vessels and vehicles.

(d) The District Commander shall, without unreasonable delay, issue a permit on proper application unless:

(1) A prior application for a permit for the same time and location has been made that has been or will be granted and the activities authorized by that permit do not reasonably allow multiple occupancy of the particular area; or

(2) It reasonably appears that the advertising or the distribution of printed matter will present a clear and present danger to the public health and safety; or

(3) The number of persons engaged in the advertising or the distribution of printed matter exceeds the number that can reasonably be accommodated in the particular location applied for, considering such things as damage to project resources or facilities, impairment of a protected area's atmosphere of peace and tranquility, interference with program activities, or impairment of public use facilities; or

(4) The location applied for has not been designated as available for the advertising or the distribution of printed matter; or

(5) The activity would constitute a violation of an applicable law or regulation.

(e) If a permit is denied, the applicant shall be so informed in writing, with the reason(s) for the denial set forth.

(f) The District Commander shall designate on a map, which shall be available for inspection in the applicable project office, the locations within the project that are available for the advertising or the distribution of printed matter. Locations may be designated as not available only if the advertising or the distribution of printed matter would:

(1) Cause injury or damage to project resources; or

(2) Unreasonably impair the atmosphere of the peace and tranquility maintained in natural, historic, or commemorative zones; or

(3) Unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the Corps of Engineers; or

(4) Substantially impair the operation of public use facilities or services of Corps of Engineers concessioners or contractors.

(5) Present a clear and present danger to the public health and safety.

(g) The permit may contain such conditions as are reasonably consistent with protection and use of the project area for the purposes for which it is established.

(h) No permit shall be issued for a period in excess of 14 consecutive days, provided that permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

(i) It is prohibited for persons engaged in the activity under this section to obstruct or impede pedestrians or vehicles, harass project visitors with physical contact or persistent demands, misrepresent the purposes or affiliations of those engaged in the advertising or the distribution of printed matter, or misrepresent whether the printed matter is available without cost or donation.

(j) A permit may be revoked under any of those conditions, as listed in paragraph (d) of this section, that constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by written confirmation within 72 hours.

(k) Violation of the terms and conditions of a permit issued in accordance with this section may result in the suspension or revocation of the permit.

Dated: May 1, 2000.

Charles M. Hess,

Chief, Operations Division, Office of Deputy Commanding General for Civil Works.

[FR Doc. 00–11307 Filed 5–4–00; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 000501119–0119–01; I.D. 042400J]

RIN 0648–AN81

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2000 Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Annual management measures for the ocean salmon fishery; request for comments.

SUMMARY: NMFS establishes fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California for the 2000 and 2001 salmon seasons opening earlier than May 1, 2001. Specific fishery management measures vary by fishery and by area. The measures establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the exclusive economic zone (EEZ) (3–200 nm) off Washington, Oregon, and California. The management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian and non-treaty commercial and recreational fisheries. The measures are also intended to allow a portion of the salmon runs to escape the ocean fisheries in order to provide for spawning escapement and for inside fisheries.

DATES: Effective from 0001 hours Pacific Daylight Time, May 2, 2000, until the effective date of the 2001 management measures, as published in the **Federal Register**. Comments must be received by May 22, 2000.

ADDRESSES: Comments on the management measures and the related environmental assessment (EA) may be sent to William Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070, fax: 206–526–6376; or to Rodney R. McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, fax: 562–980–4018.

Copies of the EA and other documents cited in this document are available from Dr. Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 2130 S.W. Fifth Ave., Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Svein Fougner at 562–980–4040.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries in the EEZ off Washington, Oregon, and California are managed under a ''framework'' fishery management plan entitled the Pacific Coast Salmon Plan (FMP). Regulations at 50 CFR part 660, subpart H, provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notification in the **Federal Register**.

These management measures for the 2000 and pre-May 2001 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 3 to 7, 2000, meeting. Schedule Used to Establish 2000 Management Measures

In accordance with the FMP, the Council's Salmon Technical Team (STT) and staff economist prepared several reports for the Council, its advisors, and the public. The first report, ''Review of 1999 Ocean Salmon Fisheries,'' (REVIEW) summarizes biological and socio-economic data for the 1999 ocean salmon fisheries and assesses how well the Council's 1999 management objectives were met. The second report, ''Preseason Report I Stock Abundance Analysis for 2000 Ocean Salmon Fisheries'' (PRE I), provides the 2000 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 1999 regulations and regulatory procedures were applied to the 2000 stock abundances.

The Council met from March 6 to 10, 2000, in Sacramento, CA, to develop proposed management options for 2000. Three commercial and three recreational fishery management options were proposed for analysis and public comment. These options consisted of various combinations of management measures designed to protect numerous weak stocks of coho and chinook salmon and to provide for ocean harvests of more abundant stocks. After the March Council meeting, the Council's STT and staff economist prepared a third report, ''Preseason Report II Analysis of Proposed Regulatory Options for 2000 Ocean Salmon Fisheries,'' which analyzes the effects of the proposed 2000 management options. This report also was made available to the Council, its advisors, and the public.

Public hearings to receive public testimony on the proposed options were held on March 27, 2000, in Westport, WA; North Bend, OR; and Santa Rosa, CA; and, on March 28, 2000, in Tillamook, OR; Moss Landing, CA; and Eureka, CA. The Council also received public testimony at both the March and April meetings, and received written comments at the Council office.

The Council met on April 3 to 7, 2000, in Portland, Oregon, to adopt its final 2000 recommendations. Following the April Council meeting, the Council's STT and staff economist prepared a fourth report, ''Preseason Report III Analysis of Council-Adopted Management Measures for 2000 Ocean Salmon Fisheries,'' which analyzes the environmental and socio-economic effects of the Council's final recommendations. This report also was made available to the Council, its advisors, and the public. After the Council took final action on the annual ocean salmon specifications in April, it published the recommended management measures in its newsletter.

Resource Status

Since 1989, NMFS has listed under the Endangered Species Act (ESA) 16 evolutionarily significant units (ESU) of salmon on the west coast. As the listings have occurred, NMFS has initiated formal ESA section 7 consultations and issued biological opinions (BOs) that consider the impacts to listed salmonid species, resulting from proposed implementation of the FMP, or in some cases, from proposed implementation of the annual management measures. Some of the BOs have concluded that implementation of the FMP is not likely to jeopardize the continued existence of certain listed ESUs. Other BOs have found the FMP is likely to jeopardize certain listed ESUs and have identified reasonable and prudent alternatives (ESA consultation standards) that would avoid the likelihood of jeopardizing the continued existence of the ESU under consideration. Since completion of the April 30, 1999, supplement to the March 8, 1996, BO on the effect of ocean fisheries on endangered and threatened salmon, NMFS has listed California Central Valley spring chinook and California coastal chinook as threatened under the ESA (64 FR 50394, September 16, 1999). In a March 7, 2000, letter to the Council, NMFS provided the Council with ESA standards and guidance for the management of stocks listed under the ESA in anticipation of the BOs in preparation for the 2000 management season.

Estimates of the 1999 spawning escapements for key stocks managed under the FMP and preseason estimates of 2000 ocean abundance are provided in the Council's REVIEW and PRE I documents. The primary resource and management concerns are for salmon stocks listed under the ESA, Queets River coho, and Klamath River fall chinook.

Oregon coastal natural (OCN) coho are the largest naturally produced component of the natural and hatchery coho stocks originating from rivers south of Leadbetter Point, WA. OCN coho are managed as a stock aggregate with four identified sub-stocks that include coho produced from Oregon river and lake systems south of the Columbia River. NMFS has listed three ESUs of coho under the ESA: central California coastal, southern Oregon/northern California coastal, and Oregon coastal. The three northern sub-stocks of OCN coho comprise the Oregon coastal coho ESU. NMFS' ESA consultation standards require that the three OCN northern sub-stocks be managed in accordance with Amendment 13 to the FMP, which permits an exploitation rate of up to 15-percent under the current level of ocean survival. The southern sub-stock is part of the southern Oregon/northern California coastal ESU and must be managed in accordance with the requirements for that ESU. The 2000 ocean abundance estimate for OCN is 55,900 coho, which is 8-percent above the 1999 post-season estimate of 51,900 coho and twice the post-season estimate of the 1997 parent brood (PRE I).

Central California coast coho and southern Oregon/northern California coast coho are listed as threatened species under the ESA (61 FR 56138, October 31, 1996, and 62 FR 24588, May 6, 1997). Coho populations in California have not been monitored closely in the past, and no forecasts of the ocean abundance of listed coho originating from California are available; these runs have been generally at low abundance levels for many years. NMFS' ESA consultation standards for the southern Oregon/northern California coastal coho and Central California coastal coho ESUs require that the ocean exploitation rate on Rogue/Klamath hatchery coho be constrained to 13-percent or less, and that the retention of coho in recreational and commercial fisheries off California be prohibited.

Sacramento River winter chinook is listed as an endangered species under the ESA (59 FR 440, January 4, 1994). NMFS' ESA consultation standards require that all harvest-related impacts to the Sacramento River winter chinook salmon population be reduced by a level that would achieve at least a 31-percent increase in the age-3 spawner-to-spawner replacement rate over a base period of 1989 through 1993. The 1999 spawning run size was estimated to be 885 adults, a 45-percent increase over the estimated 1996 adult escapement, but short of the goal of 1,083 adults. Neither preseason nor postseason estimates of ocean abundance are available for winter chinook; however, the run is expected to remain depressed in 2000.

Columbia River fall chinook abundance estimates are made for distinct fall chinook stock units. Lewis River wild chinook ocean escapement is forecast at 3,500 adults, 106-percent of the 1999 run size of 3,300 adults (PRE I). The forecast is 61-percent of the 5,700 spawning escapement goal. This decline and the expectation that Lewis River will not meet the spawning escapement goal for wild chinook are due to short term impacts from previous flooding events; therefore, this decline should not be a long-term trend. Lower river hatchery (Tules) fall chinook ocean escapement is forecast at 23,700 adults, a record low return, 37-percent below the 1999 observed return of 37,400 adults (PRE I). This stock has declined sharply since the record high return in 1987. Lower Columbia River fall chinook stocks normally account for more than half the total catch in Council area fisheries north of Cape Falcon, with lower river hatchery fall chinook being the single largest contributing stock. The forecast return is 26-percent below the current estimated ocean escapement of 32,000 adults needed to meet brood stock requirements.

Snake River wild fall chinook are listed under the ESA as a threatened species (57 FR 14653, April 22, 1992). Information on the stock's ocean distribution and on fishery impacts is not available. Fishery impacts on Snake River fall chinook are evaluated using the Lyons Ferry Hatchery stock. The Lyons Ferry stock is widely distributed and harvested by ocean fisheries from southern California to Alaska. NMFS' ESA consultation standard requires that Council fisheries must be managed to ensure that the exploitation rate of age-3 and age-4 adults for the combined Southeast Alaska, Canadian, and Council fisheries is 30-percent less than that observed during the 1988–1993 base period under the terms of the 1999 Pacific Salmon Treaty.

Klamath River fall chinook ocean abundance is projected to be 205,900 age-3 and age-4 fish at the beginning of the fishing season. The abundance forecast is 95-percent above the 1999 preseason abundance estimate and 25-percent above the average of postseason estimates for 1990–1999 (PRE I). The 1999 natural spawning escapement of 18,600 adults did not achieve the minimum escapement goal of 35,000 natural spawners (fish that spawn outside hatcheries).

The Queets River coho has a conservation objective, or maximum sustainable yield (MSY) goal, of 5,800 to 14,500 adult spawners. However, under the *Hoh* v. *Baldrige* court decisions and under the FMP, the State of Washington and the Coastal Indian treaty tribes may in any year agree on a spawning escapement objective less than the MSY goal. The State of Washington and the Quinault Nation have agreed to manage the 2000 fisheries for an overall escapement of 3,200 and a wild escapement of 2,500 coho. From 1997–99 the postseason estimates of spawners have been 2,100, 5,500, and 5,300 respectively, all well under the MSY goal. However, the wild component of the spawning escapement has only missed the annual management goal agreed to by the State and Tribes in one year, 1997.

The Council has adopted Amendment 14 to the FMP which revises the overfishing provisions of the FMP to be consistent with the 1996 Sustainable Fisheries Act amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). However, the Council has not yet submitted Amendment 14 to NMFS to begin Secretarial review. Therefore, the overfishing provisions of the current FMP are still in force. Under the current FMP, a stock is considered overfished if it misses its annual management targets for 3 consecutive years. In such case, the Council is required to prepare a detailed report determining the causes for the failure to meet the annual goals and take whatever actions are reasonable to rebuild the stock if harvest controls can have a significant positive impact. Since the wild Queets River coho escapement has fallen short of the annually agreed to goals in only 1 of the last 3 years, Queets coho are not considered overfished.

However, Amendment 14, if approved, would change the criteria for determining when a Washington coastal stock is defined as overfished from missing the annual agreed goal for 3 consecutive years to missing the MSY escapement goal for 3 consecutive years. Under the new definition, Queets River coho will be defined as overfished, and the Council will have to prepare a rebuilding plan.

The potential designation of Queets coho as overfished under Amendment

14 is controversial because the co-managers, WDFW and the Quinault Indian Nation, have had yearly agreements to manage the yearly escapement targets at less than 5,800 fish. They have indicated that the use of these preseason agreed escapement goals is more reflective of the current habitat conditions in the Queets River basin and that the MSY range of 5,800–14,500 fish was derived when habitat conditions supported a higher stock size, and may no longer be a true MSY goal.

Management Measures for 2000

The Council recommended allowable ocean harvest levels and management measures for 2000 are designed to apportion the burden of protecting the weak stocks identified and discussed in PRE I equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. NMFS finds the Council's recommendations responsive to the goals of the FMP, the requirements of the resource, and the socio-economic factors affecting resource users. The recommendations are consistent with the requirements of the Magnuson-Stevens Act and other applicable law, including the ESA and U.S. obligations to Indian tribes with Federally recognized fishing rights. Accordingly, NMFS has adopted them.

The dominant issues before the Council in developing final management recommendations were achieving an acceptable ocean exploitation rate on OCN and southern Oregon/northern California coho; meeting NMFS' ESA consultation standard for Sacramento River winter chinook; protection of depressed Puget Sound and Washington coastal coho salmon; and the allocation of Klamath River fall chinook between California and Oregon commercial fisheries.

Amendment 13 to the FMP, which was approved by NMFS in April 1999, provides separate exploitation rate targets for four OCN sub-stocks that depend on measures of prior escapement and ocean survival. NMFS' ESA consultation standard requires that the three northern sub-stocks be managed in accordance with Amendment 13, which permits an exploitation rate of up to 15-percent under the currently estimated level of ocean survival. However, NMFS provided guidance that the Council should target a precautionary exploitation rate not higher than 8.73-percent, which was the 1999 preseason exploitation rate projection. The guidance was based on concerns that: (1) The aggregate OCN coho broods had not replaced themselves in the past 3 years; (2) the actual OCN ocean abundance may fall short of the preseason forecast if the current trend of the previous 3 years in overestimated forecasts continues; and (3) the 1997 parent brood of OCN coho subject to harvest in 2000 was the lowest recorded for the last 10 years at 27,800. The Council's recommendations resulted in an 8.2-percent exploitation rate for OCN coho (freshwater and marine) and a 6.0-percent marine exploitation rate impact for Rogue/Klamath coho, which are the index stocks for the southern Oregon/northern California coho stocks. Retention of coho off California continues to be prohibited for the sixth consecutive year.

The Council's recommended measures, which are expected to produce an 8.2-percent OCN coho exploitation rate, are based on a revised hooking mortality rate estimate of 14-percent in recreational fisheries, including selective fisheries. The Council increased the hooking mortality from 8 percent to 14 percent at its March 2000 meeting based on recommendations by the STT and Scientific and Statistical Committee.

In 1999 the Council recommended and NMFS approved a selective fishery for 15,000 coho off the Oregon coast, in which hatchery marked coho with a healed adipose fin clip could be retained. The selective fishery is controversial because of potential impacts on OCN coho. This year the Council adopted a final recommendation for a 20,000 coho selective fishery following consideration of an initial proposal for a 25,000 fish selective fishery, and later a proposal from Oregon for a 15,000 fish selective fishery. Oregon will again intensively monitor this selective fishery to gain more information regarding impacts of the selective fishery and to help in the shaping of future selective fisheries. NMFS believes the modest selective fishery and planned monitoring program are sufficiently precautionary.

This year, the Council's Salmon Advisory Subpanel was unable to reach agreement on a recommendation to the Council regarding the sharing of the Klamath River fall chinook harvest between the commercial fisheries off Oregon and California. The Council voted on the allocation, adopting a recommendation for a 57/43 allocation between California and Oregon, respectively.

From the U.S.-Canada border to Cape Falcon, ocean fisheries are managed to protect depressed lower Columbia River fall chinook salmon and Washington coastal and Puget Sound natural coho salmon stocks and to meet ESA requirements for Snake River fall chinook salmon. Ocean treaty and non-treaty harvests and management measures were based in part on negotiations between Washington State fishery managers, commercial and recreational fishing groups, and the Washington coastal, Puget Sound, and Columbia River treaty Indian tribes as authorized by the U.S. District Court in *U.S.* v. *Washington, U.S.* v. *Oregon,* and *Hoh Indian Tribe* v. *Baldrige.*

North of Cape Falcon, Oregon, the 2000 management measures are more restrictive than in 1999. The total allowable catch for 2000 is 25,000 chinook and 100,000 coho; these fisheries are restricted to protect depressed Washington coastal, Puget Sound, and OCN coho. Washington coastal and Puget Sound chinook generally migrate to the far north and are affected insignificantly by ocean harvests from Cape Falcon to the U.S.-Canada border.

The new Columbia River Control Zone adopted in 1999 for the recreational fisheries was extended to the commercial fisheries in 2000. The boundaries are defined in sections 1.C.4.a. and 2.C.3.a. of the 2000 management measures. The Council adopted this change to avoid the confusion of having two different boundaries for the these user groups in this area. South of Cape Falcon, OR, the retention of coho is prohibited for the sixth consecutive year, except for a recreational selective fishery off Oregon in July with a 20,000 fish quota of marked hatchery coho. Chinook fisheries are constrained primarily to meet the Klamath River fall chinook natural spawner escapement floor and ESA standards for Sacramento River winter chinook. These constraints also limit impacts on threatened Snake River fall chinook, Central Valley spring chinook, and California coastal chinook and reduce release mortality on Oregon coastal coho, southern Oregon/northern California coast coho, and central California coho. Size limit, gear, and seasonal restrictions are intended to reduce harvest impacts on endangered Sacramento River winter chinook.

The Council recommended a minimum size limit in the recreational fishery of 24 in (61.0 cm) south of Horse Mountain through May 31, and 20 in (50.8 cm) thereafter, in conjunction with a 2 week delay in the opening of the recreational seasons south of Point Arena to reduce incidental ocean harvest of Sacramento River winter chinook and Central Valley spring chinook. In order to minimize hooking

mortality, the Council recommended the continuation of gear restrictions (circle hooks while mooching) for recreational fisheries off California, and extension of the gear restrictions for mooching to commercial fisheries.

The Council recommended for the third year a commercial troll test fishery operating inside 6 nautical miles (nm) (11.1 km) from July 1 through July 15 between Fort Ross and Point Reyes under a 4,500-fish quota. The test fishery is designed to assess the relative contribution of Klamath River fall chinook to the catch of a near-shore commercial fishery in the test area.

NMFS concluded that incidental fishery impacts that occur in the ocean salmon fishery proposed for the period from May 1, 2000, through April 30, 2001 (or until the effective date of the 2001 management measures), will not jeopardize the continued existence of ESA listed salmon.

Treaty Indian Fisheries

The treaty-Indian commercial troll fishery is expected to land its quota of 25,500 chinook in ocean management areas and Area 4B combined. The landings result from a chinook-directed fishery in May and June (under a quota of 20,000 chinook) and the all-salmon season beginning in August with a 5,500 chinook quota. The expected 2000 harvest would be a reduction from the observed harvest in 1999. The coho quota and projected catch for the treaty-Indian troll fishery in ocean management areas, including Washington State Statistical Area 4B for the May–September period is 20,000 coho, a significant decrease from 1999.

2001 Fisheries

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before May 1 of the same year. Therefore, the 2001 fishing seasons opening earlier than May 1 are also established in this action. The Council recommended and NMFS concurs that the recreational seasons from Horse Mountain to the U.S. Mexico Border will open off California in 2001 as indicated in the season description section. In addition, at the March 2000 meeting, the Council will consider inseason recommendations to (1) Establish management measures for an all-salmon-except-coho recreational and commercial fishery prior to May 1, in areas off Oregon, and (2) recommend the areas, season, quota, and special regulations for experimental fisheries in April (proposals must meet Council protocol and be received in November 2000).

Inseason Actions

The following sections set out the management regime for the salmon fishery. Open seasons and days are described in Sections 1, 2, and 3 of the 2000 management measures. Inseason closures in the commercial and recreational fisheries are announced on the NMFS hotline and through the Coast Guard Notice to Mariners as described In Section 7. Other inseason adjustments to management measures are also announced on the hotline and through Notice to Mariners.

The following are the management measures recommended by the Council and approved and implemented by NMFS for 2000 and, as specified, for 2001.

Section 1. Commercial Management Measures for 2000 Ocean Salmon Fisheries

Note: This section contains important restrictions in parts A, B, and C which must be followed for lawful participation in the fishery.

A. Season Description—North of Cape Falcon

U.S.-Canada Border to Cape Falcon

May 1 through earlier of June 15 or 11,000 chinook guideline (see C.7.a.). All salmon except coho. See gear restrictions in C.2. Columbia Control Zone is closed (see C.4.a. for description of newly defined area for 2000 which is identical to the recreational control zone). [Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (C.7.)]

Queets River to Cape Falcon

Aug. 4 through earliest of Sept. 30 or the overall chinook quota (preseason 1,500 chinook guideline; see C.7.a.) or a quota of 25,000 coho with healed adipose fin clips. All salmon. Cycle of 4 days open/3 days closed. See gear restrictions in C.2. Each vessel may possess, land, and deliver no more than 50 chinook per open period. However, no possession or landing restrictions will initially apply if the chinook harvest guideline is at least 2,500 chinook as a result of the transfer of uncaught harvest from the May/June fishery. Trip limits, gear restrictions, and harvest guidelines may be instituted and adjusted inseason. Vessels must land and deliver their fish within 24 hours of any closure of this fishery within the area or in adjacent areas that are closed to all commercial non-Indian salmon fishing. Columbia Control Zone is closed (see C.4.a. for description of newly defined area for 2000, which is identical to the recreational control zone).

South of Cape Falcon

Cape Falcon to Humbug Mt.

Apr. 1 through July 22; Aug. 1 through Aug. 29; and Sept. 1 through Oct. 31. All salmon except coho. See gear restrictions in C.2. See Oregon State regulations for a description of the closed area at the mouth of Tillamook Bay.

Humbug Mt. to OR–CA Border

May 1 through May 31. All salmon except coho. See gear restrictions in C.2.

Sisters Rocks to Oregon-California Border

Aug. 1 through earlier of Aug. 31 or 1,300 chinook quota. All salmon except coho. Possession and landing limit of 30 fish per day. See gear restrictions in C.2. All salmon must be landed and delivered to Gold Beach, Port Orford or Brookings within 24 hours of closure.

House Rock, Oregon to Humboldt South Jetty

Sept. 1 through earlier of Sept. 30 or 7,000 chinook quota. All salmon except coho. Possession and landing limit of 30 fish per day. All fish caught in this area must be landed within the area. See gear restrictions in C.2. Klamath Control Zone closed (C.4.). The 7,000 chinook quota includes a harvest guideline limiting landings at the port of Brookings to no more than 1,000 chinook. If this guideline is reached prior to the overall quota, the fishery will close north of the Oregon-California border. When the fishery is closed north of the Oregon-California border and open to the south, Oregon State regulations provide for the following Vessels with fish on board caught in the open area off California may seek temporary mooring in Brookings, Oregon prior to landing in California only if such vessels first notify the Chetco River Coast Guard Station via VHF channel 22A between the hours of 0500 and 2200 and provide the vessel name, number of fish on board, and estimated time of arrival.

Horse Mt. to Pt. Arena (Fort Bragg)

Sept. 1 through Sept. 30. All salmon except coho. Minimum size 26 in (66.0 cm). See gear restrictions in C.2.

Pt. Arena to Pt. Reyes (Bodega Bay)

July 18 through Sept. 30. All salmon except coho. Minimum size 27 in (68.6 cm). See gear restrictions in C.2.

Fort Ross to Pt. Reyes (test fishery inside 6 nm (11.1 km))

July 1 through earlier of July 15 or 4,500 chinook quota. All salmon except coho. Fishery closed July 4. Minimum size 26 in (66.0 cm) (to be consistent with 1998 and 1999 test fisheries). Open only inside 6 nm (11.1 km). Possession and landing limit of 30 fish per day. See gear restrictions in C.2. All fish caught in this area must be landed in Bodega Bay. Fish taken outside this area may not be landed at Bodega Bay while this fishery is open.

Pt. Reyes to Pt. San Pedro

May 29 through Sept. 30. All-salmon-except-coho. Minimum size 26 in (66.0 cm) through June 30 and 27 in (68.6 cm) thereafter. See gear restrictions in C.2.

Pt. San Pedro to U.S.-Mexico Border

May 1 through Aug. 27. All salmon except coho. Minimum size 26 in (66.0 cm) through June 30 and 27 in (68.6 cm) thereafter. See gear restrictions in C.2.

B. MINIMUM SIZE

[Inches]

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon	28.0	21.5	16.0	12.0	None.
Cape Falcon to Pt. Arena	[a] 26.0	[a] 19.5	.....	.....	None.
South of Pt. Arena prior to July 1	[a] 26.0	[a] 19.5	.....	.....	None.
South of Pt. Arena after June 30	[a b] 27.0	[a b] 20.25	.....	.....	None.

[a] Chinook not less than 26 in (19.5 in head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon.

[b] Except minimum size limit of 26 in total length in the Bodega Bay test fishery.

Metric equivalents: 28.0 in=71.1 cm, 27.0 in=68.6 cm, 26.0 in=66.0 cm, 21.5 in=54.6 cm, 20.25 in=51.4 cm, 19.5 in=49.5 cm, 16.0 in=40.6 cm, 12.0 in=30.5 cm

C. Special Requirements, Definitions, Restrictions, or Exceptions

C.1. *Compliance with Minimum Size or Other Special Restrictions:* All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught.

C.2. *Gear Restrictions:*

a. Single point, single shank barbless hooks are required in all fisheries.

b. Off Oregon South of Cape Falcon: No more than 4 spreads are allowed per line.

Spread defined: A single leader connected to an individual lure or bait.

c. Off California: No more than 6 lines are allowed per vessel and barbless circle hooks are required when fishing with bait by any means other than trolling.

Circle hook defined: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

Trolling defined: Fishing from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions, except when landing fish.

C.3. *Transit Through Closed Areas with Salmon on Board:* It is unlawful for a vessel to have troll gear in the water while transiting any area closed to salmon fishing while possessing salmon.

C.4. *Control Zone Definitions (note modified description of Columbia Control Zone for 2000):*

a. *Columbia Control Zone*—An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between red lighted Buoy #4 (46°13′35″ N. lat., 124°06′50″ W. long.) and green lighted Buoy #7 (46°15′09″ N. lat., 124°06′16″ W. long.); on the east, by the Buoy #10 line which bears north/south at 357 true from the south jetty at 46°14′00″ N. lat., 124°03′07″ W. long. to its intersection with the north jetty; on the north, by a line running northeast/northeast/southwest between green lighted Buoy #7 to the tip of the north jetty (46°14′48″ N. lat., 124°05′20″ W. long.), and then along north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between red lighted Buoy #4 and the tip of the south jetty (46°14′03″ N. lat., 124°04′05″ W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

b. *Klamath Control Zone*—The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N. lat. (approximately 6 nm (11.1 km) north of the Klamath River mouth); on the west, by 124°23′00″ W. long. (approximately 12 nm (22.2 km) off shore); and, on the south, by 41°26′48″ N. lat. (approximately 6 nm (11.1 km) south of the Klamath River mouth).

C.5. *Notification When Unsafe Conditions Prevent Compliance with Regulations:* If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgment of such notification prior to leaving the area. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board and the estimated time of arrival. This stipulation will be implemented by state regulations for California, Oregon and Washington.

C.6. *Incidental Halibut Harvest:* During authorized periods, the operator of a vessel that has been issued an incidental halibut harvest license may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. License applications for incidental harvest must be obtained from the International Pacific Halibut Commission (phone 206–634–1838). Applicants must apply prior to April 1 of each year. Incidental harvest is authorized only during May and June troll seasons and after July 31 if quota remains and if announced on the NMFS hotline (phone 800–662–9825). ODFW and WDFW will monitor landings. If the landings are projected to exceed the 23,490-lb (10.7-mt) preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to close the incidental halibut fishery. License holders may land no more than 1 halibut per each 3 chinook, except 1 halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per trip. Halibut retained must be no less than 32

in (81.3 cm) in total length (with head on).

C.7. *Inseason Management:* In addition to standard inseason actions or modifications already noted under the season description, the following inseason guidance is provided to NMFS:

a. In the overall non-Indian commercial chinook quota north of Cape Falcon, 1,000 chinook in the May/June harvest guideline are the result of impacts assessed at the July/August harvest impact rate. Inseason, these 1,000 chinook (or remaining portion thereof) may be transferred to the July/August harvest guideline at a one-to-one rate if not caught in the May/June fishery. Any chinook remaining in the May/June harvest guideline in excess of 1,000 may be transferred to the July/August harvest guideline on a fishery impact equivalent basis.

b. At the March 2001 meeting, the Council will consider inseason recommendations to: (1) Open commercial seasons for all salmon except coho prior to May 1 in areas off Oregon, and (2) identify the areas, season, quota, and special regulations for any experimental April fisheries (proposals must meet Council protocol and be received in November 2000).

C.8. Consistent with Council management objectives, the State of Oregon may establish additional late-season, chinook-only fisheries in state waters. Check state regulations for details.

C.9. For the purposes of CDFG Code, Section 8232.5, the definition of the KMZ for the ocean salmon season shall be that area from Humbug Mt., Oregon to Horse Mt., California.

Section 2. Recreational Management Measures for 2000 Ocean Salmon Fisheries

Note: This section contains important restrictions in parts A, B, and C which must be followed for lawful participation in the fishery.

A. Season Description—North of Cape Falcon

U.S.-Canada Border to Cape Alava (Neah Bay Area)

July 3 through earlier of Sept. 30 (7 days per week) or subarea quota of 6,900 marked coho. All salmon, see following note concerning Area 4B. 2 fish per day, but only 1 chinook. All retained coho must have a healed adipose fin clip. See gear restrictions in C.2. Inseason management may be used to maintain season length and keep harvest within a guideline of 500 chinook.

Note: While ocean fishery is open in Area 4, no retention of chinook is allowed in Area 4B.

Cape Alava to Queets River (La Push Area)

July 3 through earlier of Sept. 30 (7 days per week) or subarea quota of 1,700 marked coho. All salmon. 2 fish per day, but only 1 chinook. All retained coho must have a healed adipose fin clip. See gear restrictions in C.2. Inseason management may be used to maintain season length and keep harvest within a guideline of 300 chinook.

Queets River to Leadbetter Pt. (Westport Area)

Sun. through Thurs. July 3 through earlier of Sept. 30 or subarea quota of 28,900 marked coho. All salmon. 2 fish per day, but only 1 chinook. All retained coho must have a healed adipose fin clip. See gear restrictions in C.2. Closed through Aug. 10 inside the area defined by a line drawn from the Westport lighthouse (46°53.3′ N. lat., 124°07.01′ W. long.) to Buoy #2 (46°52.7′ N. lat., 124°12.7′ W. long.) to Buoy #3 (46°55.0′ N. lat., 124°14.8′ W. long.) to the Grays Harbor north jetty (46°55.6′ N. lat., 124°10.85′ W. long.). Inseason management may be used to maintain season length and limit harvest within a guideline of 7,400 chinook.

Leadbetter Pt. to Cape Falcon (Columbia River Area)

Sun. through Thurs. July 10 through earlier of Sept. 30 or subarea quota of 37,500 marked coho. All salmon. 2 fish per day, but only 1 chinook. All retained coho must have a healed adipose fin clip. See gear restrictions in C.2. Coho retention is prohibited between Tillamook Head and Cape Falcon beginning Aug. 1 (*i.e.,* all salmon except coho and a daily bag limit of 1 chinook). Closed in Columbia Control Zone (C.3.). Inseason management may be used to maintain season length and limit harvest within a guideline of 4,300 chinook.

South of Cape Falcon

Cape Falcon to Humbug Mt.

Except as provided below during the selective fishery, the season will be Apr. 1 through Oct. 31. All salmon except coho, 2 fish per day. No more than 6 fish in 7 consecutive days. See gear restrictions in C.2. See Oregon State regulations for a description of a closure at the mouth of Tillamook Bay.

Selective fishery for marked hatchery coho (healed adipose fin clip)

Sun., Tue., Wed., Thur., and Sat. of each week, July 1 through earlier of July 31 or a landed catch of 20,000 marked coho. All salmon. 2 fish per day. All retained coho must have a healed adipose fin clip. No more than 6 fish in 7 consecutive days. See gear restrictions C.2. Open days may be adjusted to utilize the available quota.

Note: On closed days during the selective fishery, no angling for any species of salmon is allowed. The all-salmon-except-coho season reopens the earlier of Aug. 1 or attainment of the coho quota.

Humbug Mt. to Horse Mt. (Klamath Management Zone)

May 27 through July 6, one fish per day; and July 29 through Sept. 10, two fish per day. All salmon except coho, no more than 4 fish in 7 consecutive days. See gear restrictions in C.2. Klamath Control Zone (C.3.) closed during Aug.

Horse Mt. to Pt. Arena (Fort Bragg)

Feb. 12 through July 6 and July 22 through Nov. 12. All salmon except coho, 2 fish per day. Minimum size 24 in (61.0 cm) through May 31 and 20 inc (50.8 cm) thereafter. See gear restrictions in C.2.

In 2001, season opens Feb. 17 (nearest Sat. to Feb. 15) for all salmon except coho, 2 fish per day. Minimum size 24 in (61.0 cm) and gear restrictions in C.2.

Pt. Arena to Pigeon Pt.

Apr. 15 through Nov. 5. All salmon except coho, 2 fish per day. Minimum size 24 in (61.0 cm) through May 31 and 20 in (50.8 cm) thereafter. See gear restrictions in C.2.

In 2001, the season will open Apr. 14 for all salmon except coho, 2 fish per day. Minimum size 24 in (61.0 cm) and gear restrictions in C.2.

Pigeon Pt. to U.S.-Mexico Border

Apr. 1 through Oct. 1. All salmon except coho, 2 fish per day. Minimum size 24 in (61.0 cm) through May 31 and 20 in (50.8 cm) thereafter. North of Pt. Conception, see gear restrictions in C.2.

In 2001, the season will open March 31 for all salmon except coho, 2 fish per day. Minimum size 24 in (61.0 cm) and gear restrictions in C.2.

B. MINIMUM SIZE

[Total Length in Inches]

Area (when open)	Chinook	Coho	Pink
North of Cape Falcon	24.0	16.0	None.
Cape Falcon to Horse Mt	20.0	16.0	None, except 20.0 off.
South of Horse Mt*	20.0*	-	20.0.

* Except 24.0 inches prior to June 1.
Metric equivalents: 24.0 in=61.0 cm, 20.0 in=50.8 cm, 16.0 in=40.6 cm.

C. Special Requirements, Definitions, Restrictions, or Exceptions

C.1. *Compliance with Minimum Size and Other Special Restrictions:* All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught.

C.2. *Gear Restrictions:* All persons fishing for salmon, and all persons fishing from a boat with salmon on board must meet the gear restrictions listed below for specific areas or seasons.

a. *U.S.-Canada Border to Pt. Conception, California:* No more than one rod may be used per angler and single point, single shank barbless hooks are required for all fishing gear. (Note: ODFW regulations in the state-water fishery off Tillamook Bay may allow the use of barbed hooks to be consistent with inside regulations.)

b. *Off Oregon between Cape Falcon and Humbug Mt.:* During the all-salmon-except coho season, legal gear is limited to artificial lures and plugs of any size, or bait no less than 6 in (15.2 cm) long (excluding hooks and swivels). All gear must have no more than 2 single point, single shank barbless hooks. Divers are prohibited and flashers may be used only with downriggers. During the all-salmon, mark-selective fishery, the legal gear limitations for this area are waived, except anglers must use no more than 2 single point, single shank barbless hooks.

c. *Off California North of Pt. Conception:* Anglers must use no more than 2 single point, single shank barbless hooks.

d. *Off California between Horse Mt. and Pt. Conception:* Single point, single shank, barbless circle hooks must be used if angling with bait by any means other than trolling and no more than 2 such hooks shall be used. When angling with 2 hooks, the distance between the hooks must not exceed 5 in (12.7 cm) when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). Circle hooks are not required when artificial lures are used without bait.

Circle hook defined: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

Trolling defined: Angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions, except when landing a fish.

C.3. *Control Zone Definitions:*

a. Columbia Control Zone—An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between red lighted Buoy #4 (46°13′35″ N. Lat., 124°06′50″ W. long.) and green lighted Buoy #7 (46°15′09″ N. lat., 124°06′16″ W. long.); on the east, by the Buoy #10 line which bears north/south at 357 true from the south jetty at 46°14′00″ N. lat.,124°03′07″ West. long. to its intersection with the north jetty; on the north, by a line running northeast /southwest between green lighted Buoy #7 to the tip of the north jetty (46°14′48″ N. lat., 124°05′20″ W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between red lighted Buoy #4 and tip of the south jetty (46°14′03″ N. lat., 124°04′05″ W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

b. *Klamath Control Zone*—The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N. lat. (approximately 6 nm (11.1 km) north of the Klamath River mouth); on the west, by 124°23′00″ W. long. (approximately 12 nm (22.2 km) off shore); and, on the south, by 41°26′48″ N. lat. (approximately 6 nautical miles (11.1 km) south of the Klamath River mouth).

C.4. *Inseason Management:* Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines and season duration. Actions could include modifications to bag limits or days open to fishing, and extensions or reductions in areas open to fishing. NMFS may transfer coho inseason among recreational subareas North of Cape Falcon to help meet the recreational season duration objectives (for each subarea) after conferring with representatives of the affected ports and the Salmon Advisory Subpanel recreational representatives north of Cape Falcon. At the March 2001 meeting, the Council will consider an inseason recommendation to open seasons for all salmon except coho prior to May 1 in areas off Oregon.

C.5. *Additional Seasons in State Territorial Waters:* Consistent with Council management objectives, the states of Washington and Oregon may establish limited seasons in state waters. Oregon state-water fisheries are limited to chinook salmon. Check state regulations for details.

Section 3. Treaty Indian Management Measures for 2000 Ocean Salmon Fisheries

Note: This section contains important restrictions in parts A, B, and C which must be followed for lawful participation in the fishery.

A. Season Descriptions

Tribe and area boundaries	Open seasons	Salmon species	Minimum size (inches)		Special restrictions by area
			Chinook	Coho	
Makah—That portion of the Fishery Management Area (FMA) north of 48°02′15″ N. lat. (Norwegian Memorial) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota. August 1 through earliest of September 15 or chinook or coho quota.	All except coho All	24 24	 16	Barbless hooks. No more than 8 fixed lines per boat or no more than 4 hand-held lines per person.
Quileute—That portion of the FMA between 48°07′36″ N. lat. (Sand Point) and 47°31′42″ N. lat. (Queets River) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota. August 1 through earliest of September 15 or chinook or coho quota.	All except coho All	24 24	 16	Barbless hooks. No more than 8 fixed lines per boat.
Hoh—That portion of the FMA between 47°54′18″ N. lat. (Quillayute River) and 47°21′00″ N. lat. (Quinault River) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota. August 1 through earliest of September 15 or chinook or coho quota.	All except coho All	24 24	 16	Barbless hooks. No more than 8 fixed lines per boat.
Quinault—That portion of the FMA between 47°40′06″ N. lat. (Destruction Island) and 46°53′18″ N. lat. (Point Chehalis) and east of 125°44′00″ W. long.	May 1 through earlier of June 30 or chinook quota. August 1 through earliest of September 15 or chinook or coho quota.	All except coho All	24 24	 16	Barbless hooks. No more than 8 fixed lines per boat.

* Metric equivalents: 24 in=61.0 cm, 16 in=40.6 cm.

B. Special Requirements, Restrictions, and Exceptions

B.1. All boundaries may be changed to include such other areas as may hereafter be authorized by a Federal court for that tribe's treaty fishery.

B.2. Applicable lengths, in inches, for dressed, head-off salmon, are 18 in (45.7 cm) for chinook and 12 in (30.5 cm) for coho. Minimum size and retention limits for ceremonial and subsistence harvest are as follows:

Makah Tribe—None.

Quileute, Hoh and Quinault tribes—Not more than 2 chinook longer than 24 in (61.0 cm) in total length may be retained per day. Chinook less than 24 in (61.0 cm) total length may be retained.

B.3. The area within a 6-mile (9.7 km) radius of the mouths of the Queets River (47°31′42″ N. lat.) and the Hoh River (47°45′12″ N. lat.) will be closed to commercial fishing. A closure within 2 miles (3.2 km) of the mouth of the Quinault River (47°21′00″ N. lat.) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

C. Quotas

C.1. The overall treaty troll ocean quotas are 25,500 chinook and 20,000 coho. The overall chinook quota is divided into 20,000 chinook for the May-June chinook-directed fishery and 5,500 chinook for the August-September all-salmon season. If the chinook quota for the May-June fishery is not fully utilized, the excess fish may not be transferred into the later all-salmon season. The quotas include troll catches by the S'Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 30.

Section 4. Halibut Retention

Under the authority of the Northern Pacific Halibut Act, NMFS promulgated regulations governing the Pacific halibut fishery which appear at 50 CFR part 300, subpart E. In addition, the 2000 Pacific halibut management measures were published in the **Federal Register** on March 20, 2000 (65 FR 14909). The regulations and management measures provide that vessels participating in the salmon troll fishery in Area 2A (all waters off the States of Washington, Oregon, and California), which have obtained the appropriate International Pacific Halibut Commission (IPHC) license, may retain halibut caught incidentally during authorized periods in conformance with provisions published with the annual salmon management measures. A salmon troller may participate in the halibut incidental catch fishery during the salmon troll season or in the directed commercial fishery targeting halibut, but not both.

The following measures have been approved. The operator of a vessel who has been issued an incidental halibut harvest license by the IPHC may retain Pacific halibut caught incidentally in Area 2A, during authorized periods, while trolling for salmon. Incidental harvest is authorized only during the May and June troll seasons. It is also authorized after July 31 if halibut quota remains and if halibut retention is announced on the NMFS hotline (phone 800–622–9825). License holders may land no more than 1 halibut per each 3 chinook, except 1 halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per trip. Halibut retained must meet the minimum size limit of 32 in (81.3 cm). The Oregon Department of Fish and Wildlife and Washington Department of Fish and Wildlife will monitor landings and, if they are projected to exceed the 23,490-lb (10.7-mt) preseason allocation or the Area 2A non-Indian commercial total allowable catch of halibut, NMFS will take inseason action to close the incidental halibut fishery. License applications for incidental harvest must be obtained from the IPHC. Applicants must apply prior to April 1 of each year.

Section 5. Gear Definitions and Restrictions

In addition to the gear restrictions shown in Section 1, 2, and 3, the following gear definitions and restrictions will apply.

Commercial Troll Fishing Gear: Troll fishing gear for the ocean salmon fisheries in the EEZ off Washington,

Oregon, and California is defined as one or more lines that drag hooks behind a moving fishing vessel. In that portion of the fishery management area (FMA) off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

Recreational Fishing Gear: Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with no more than one artificial lure or natural bait attached. In that portion of the FMA off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington. In that portion of the FMA off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed 4 lb (1.8 kg). While fishing off California north of Point Conception, no person fishing for salmon and no person fishing from a boat with salmon on board, may use more than one rod and line. Fishing includes any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

Section 6. Geographical Landmarks

Wherever the words ''nautical miles off shore'' are used in this document, the distance is measured from the baseline from which the territorial sea is measured.

Geographical landmarks referenced in this document are at the following locations:

Cape Flattery	48°23′00″ N. lat.
Cape Alava	48°10′00″ N. lat.
Queets River	47°31′42″ N. lat.
Leadbetter Point	46°38′10″ N. lat.
Cape Falcon	45°46′00″ N. lat.
Humbug Mountain	42°40′30″ N. lat.
Sisters Rocks	42°35′45″ N. lat.
Mack Arch	42°13′40″ N. lat.
House Rock	42°06′32″ N. lat.
Oregon-California Border	42°00′00″ N. lat.
Humboldt South Jetty	40°45′53″ N. lat.
Horse Mountain	40°05′00″ N. lat.
Point Arena	38°57′30″ N. lat.
Fort Ross	38°31′00″ N. lat.
Point Reyes	37°59′44″ N. lat.
Point San Pedro	37°35′40″ N. lat.
Pigeon Point	37°11′00″ N. lat.
Point Conception	34°27′00″ N. lat.

Section 7. Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF–FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be filed with the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

Classification

This notification of annual management measures is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B), to waive the requirement for prior notice and opportunity for public comment. As described earlier (Schedule Used to Establish 2000 Management Measures), the Council solicited public comment on these measures and has notified the public of the measures it recommended for implementation. Providing for additional prior notice and opportunity for public comments on these measures through a rulemaking process would be impracticable and contrary to the public interest. Given the extremely low returns of many ocean salmon stocks listed under the ESA, the need to prevent overfishing, and the need to facilitate a level of escapement to meet the requirements of the resource and inside fisheries, it is essential to have these measures effective at the beginning of the fishing year. Failure to implement these measures immediately could compromise the status of certain stocks and negatively impact international, state, and tribal salmon fisheries, thereby undermining the purposes of this agency action.

For the reasons discussed earlier, NMFS has determined that good cause exists to waive the requirements of 50 CFR 660.411 for prior notice and opportunity for public comments. Section 660.411 of title 50, Code of Federal Regulations, requires NMFS to publish an action implementing management measures for ocean salmon fisheries each year and, if time allows, invite public comment prior to the effective date. Section 660.411 further states that if, for good cause, an action must be filed without affording a prior opportunity for public comment, the measures will become effective; however, public comments on the action will be received for a period of 15 days after filing of the action with the Office of the Federal Register. NMFS will receive public comments on this action for 15 days from the date of filing this action for public inspection with the Office of the Federal Register.

The AA also finds good cause under 5 U.S.C. 553(d)(3), to waive the 30-day delay in effectiveness of this rule. The finding of good cause is based upon the public's interest in having these provisions in place by the start of the ocean salmon fishing year (May 1, 2000). As previously discussed, these measures are essential to conserve threatened and endangered ocean salmon stocks, and to provide for harvest of more abundant stocks. The finding of good cause to waive the 30-day delay in effectiveness is also based on the limited time available to implement these new measures after the final Council meeting in April and before the commencement of the ocean salmon fishing year on May 1.

To enhance notification of the fishing industry of these new measures, NMFS is announcing the new measures over the telephone hotline used for inseason management actions and by U.S. Coast Guard Notice to Mariners Broadcast. NMFS also has advised the States of Washington, Oregon, and California,

which announce the seasons for applicable state and Federal fisheries through their own public notification systems.

Since 1989, NMFS has listed 16 ESUs of salmon on the west coast. As the listings have occurred, NMFS has initiated formal ESA section 7 consultations and issued BOs which consider the impacts to listed salmonid species, resulting from proposed implementation of the FMP, or in some cases, from proposed implementation of the annual management measures. Some opinions have concluded that implementation of the FMP is not likely to jeopardize the continued existence of certain listed ESUs. Other opinions have found the FMP is likely to jeopardize certain listed ESUs, and have identified reasonable and prudent alternatives (ESA consultation standards) that would avoid the likelihood of jeopardizing the continued existence of the ESU under consideration. Since completion of the April 30, 1999, supplement to the March 8, 1996, BO on the effect of ocean fisheries on endangered and threatened salmon, NMFS has listed Central Valley spring chinook and California coastal chinook as threatened under the ESA (64 FR 50394, September 16, 1999).

NMFS reinitiated consultation and issued two BOs which address the potential effects of ocean salmon fisheries to newly listed species under the ESA; those opinions were signed on April 28, 2000, covering the two listed chinook ESUs in the ocean salmon fisheries, and on April 28, 2000, covering the ocean salmon fisheries for this season through April 30, 2001.

Based on these BOs, NMFS concludes that these management measures are not likely to jeopardize the continued existence of any ESU of salmon that is listed under the ESA. The Council's recommended management measures comply with the terms and conditions of the incidental take statements in all of the outstanding applicable BOs related to listed salmon species that may be affected by Council fisheries.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 1, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–11231 Filed 5–2–00; 11:28 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 65, No. 88
Friday, May 5, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 590

[Docket No. 99–012E]

RIN 0583–AC71

Fee Increase for Egg Products Inspection—Year 2000; Extension of comment period.

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food Safety and Inspection Service (FSIS) is extending the comment period for the proposed rule, ''Fee Increase for Egg Products Inspection—Year 2000'' for an additional 30 days. This action is in response to a request to allow additional time for comment in order to compile more complete data regarding the impact of the proposed fee.

DATES: Comments must be received by June 1, 2000.

ADDRESSES: Submit one original and two copies of written comments to FSIS Docket Clerk, Docket No. 99–012P, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. All comments submitted in response to the proposal will be available for public inspection in the Docket Clerk's Office between 8:30 and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For information concerning policy issues, contact Daniel Engeljohn, Ph.D., Director, Regulations Development and Analysis Division, Office of Policy, Program Development, and Evaluation, FSIS, U.S. Department of Agriculture, Room 112, Cotton Annex, 300 12th Street, SW., Washington, DC 20250, (202) 720–5627, fax number (202) 690–0486.

For information concerning fee development, contact Michael B. Zimmerer, Director, Financial Management Division, Office of Management, FSIS, U.S. Department of Agriculture, Room 2130-S, 1400 Independence Avenue, SW., Washington, DC 20250, (202) 720–3552, fax number (202) 720–3552.

SUPPLEMENTARY INFORMATION:

Background

FSIS is responsible for the inspection of egg products to protect the health and welfare of consumers by assuring that egg products are wholesome, not adulterated, and properly labeled and packaged.

While the cost of mandatory inspection is borne by FSIS, plants pay for inspection services performed on holidays or on an overtime basis. There has not been a change in overtime and holiday fees for egg products inspection services since the transfer of program functions from AMS to FSIS in May 1995. AMS established and implemented the current fees in November 1994. These fees reflect only the costs of inspection at that time and are insufficient to recover FSIS's current costs for the delivery of overtime and holiday inspection service.

On March 3, 2000, FSIS published a proposed rule (65 FR 11486) to increase the fees it charges egg products plants for providing overtime and holiday inspection services. FSIS is also proposing to amend 9 CFR 590.130 by deleting the reference to regulations governing the collection of fees associated with the voluntary grading of eggs. Interested parties were given 60 days to submit comments on the proposal.

Now in response to a request to extend the comment period for the proposed rule, FSIS has decided to extend the comment period an additional 30 days. The request included preliminary impact data to support the statement that additional time was needed to complete the data collection effort.

Additional Public Notification

Public involvement in all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce and provide copies of this **Federal Register** publication in its constituent update.

The Agency provides a weekly *FSIS Constituent Update* via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience than would be otherwise possible.

For more information or to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720–5704.

Done in Washington, DC on: May 2, 2000.

Thomas J. Billy,

Administrator.

[FR Doc. 00–11298 Filed 5–4–00; 8:45 am]

BILLING CODE 3410–DM–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 32

[Docket No. PRM–32–05]

Metabolic Solutions: Denial of Petition for Rulemaking; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking; correction.

SUMMARY: This document corrects the denial of a petition for rulemaking filed by Metabolic Solutions published in the **Federal Register** on April 24, 2000 (65 FR 21673). The **ADDRESSES** section of the notice contains language that requests public comment that was inadvertently included in the notice. This action is necessary to indicate that the NRC is not soliciting public comments because the denial is the final NRC action on the petition for rulemaking.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules and

Directives Branch, Division of Administrative Services, Office of Administration, telephone (301) 415–7162.

SUPPLEMENTARY INFORMATION: On page 21673, in the first column, the **ADDRESSES** section is removed because the NRC is not soliciting public comments and the denial is the final NRC action on this petition for rulemaking.

Dated at Rockville, Maryland, this 1st day of May 2000.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 00–11244 Filed 5–4–00; 8:45 am]

BILLING CODE 7590–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–09–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) Airplanes

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 99–12–02, which currently requires flight and operating limitations on Raytheon Aircraft Corporation (Raytheon) Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) airplanes. AD 99–12–02 resulted from a report of an in-flight separation of the right wing on a Raytheon Beech Model A45 (T–34A) airplane. The AD was issued as an interim action until the development of FAA-approved inspection procedures. Raytheon has developed such procedures. The proposed AD would: Require repetitive inspections of the wing spar assembly for cracks, with replacement of any wing spar assembly found cracked (unless the spar assembly has a crack indication in the filler strip where the direction of the crack is toward the outside of the filler strip); require reporting the results of the initial inspection; and change the flight and operating limitations that AD 99–12–02 currently requires.

The actions specified by the proposed AD are intended to detect and correct cracks in the wing spar assemblies and assure the operational safety of the above-referenced airplanes.

DATES: The Federal Aviation Adminstration (FAA) must receive any comments on the proposed rule on or before July 7, 2000.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–09–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in the proposed AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. You may examine this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Paul Nguyen, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4125; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES.** The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

We believe that the proposed regulation may have a significant economic impact on a substantial number of small entities. Due to the urgent nature of the safety issues addressed, FAA has been unable to complete a preliminary regulatory flexibility analysis prior to issuance of the NPRM. We anticipate including the final regulatory flexibility analysis and determination with the final rule, if adopted. To assist in this analysis, we are particularly interested in receiving information on the impact of the proposed rule on small businesses and suggested alternative methods of compliance that will reduce or eliminate such impacts. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

The FAA is re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov*.

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–09-AD.'' We will date stamp and mail the postcard back to you.

Discussion

Has FAA taken any action to this point? In-flight separation of the right wing on a Raytheon Beech Model A45 (T34A) airplane caused us to issue AD 99–12–02, Amendment 39–11193 (64 FR 31689, June 14, 1999). This AD requires:

—Incorporating flight and operating limitations that restrict the airplanes to normal category operation and prohibit them from acrobatic and utility category operations;

—Limiting the flight load factor to 0 to 2.5 G; and

—Limiting the maximum airspeed to 175 miles per hour (mph) (152 knots).

AD 99–12–02 was issued as an interim action until the development of FAA-approved inspection procedures.

What has happened since AD 99–12–02 to initiate this action? Raytheon has developed procedures to inspect the wing spar assemblies on Raytheon Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) airplanes. We have reviewed and approved the technical aspects of these procedures.

Is there service information that applies to this subject? Raytheon has issued Mandatory Service Bulletin No. SB 57–3329, Issued: February, 2000.

What are the provisions of this service bulletin? The service bulletin:

—Includes procedures for inspecting the forward (main) and aft (rear) wing spar assemblies of the above-referenced airplanes; and

—Specifies provisions for when to replace a cracked wing spar assembly.

The service bulletin specifies that a crack indication in the filler strip is allowed if the direction of the crack is toward the outside edge of the filler strip. If the direction of the crack is toward the inside of the filler strip or any crack is found in any other area, the service bulletin specifies replacing the spar assembly prior to further flight.

The FAA's Determination and Explanation of the Provisions of the Proposed AD

What has FAA determined? After examining the circumstances and reviewing all available information related to the incidents described above, including the relevant service information, FAA has determined that:

—An unsafe condition is likely to exist or develop in other Raytheon Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) airplanes of the same type design;

—The actions of the above-referenced service bulletin should be accomplished on the affected airplanes;

—When these actions are accomplished, the flight and operating restrictions that AD 99–12–02 requires may be changed as specified in this proposed AD; and

—AD action should be taken to detect and correct cracks in the wing spar assemblies and assure the operational safety of the above-referenced airplanes.

What would the proposed AD require? The proposed AD would supersede AD 99–12–02 and would:

—Require you to repetitively inspect the wing spar assemblies for cracks and replace any cracked wing spar assembly. A crack indication in the filler strip is allowed if the direction of the crack is toward the outside edge of the filler strip;

—Require you to report the results of the initial inspection;

—Require you to maintain the flight and operating restrictions that AD 99–12–02 currently requires until you accomplish the initial inspection and possible replacement proposed in this AD; and

—Allow you to change the flight and operating restrictions that AD 99–12–02 currently requires after the wing spar assemblies are inspected and the wing spar assembly either is replaced, is crack free, or only has a crack indication in the filler strip where the direction of the crack is toward the outside of the filler strip.

Are there differences between the proposed AD and the service information? Raytheon Mandatory Service Bulletin No. SB 57–3329, Issued: February, 2000, specifies that you accomplish the initial inspection prior to further flight after receipt. We do not have justification for requiring the initial inspection prior to further flight. Instead, we have determined that 80 hours time-in-service (TIS) or 12 months (whichever occurs first) is a reasonable time period for accomplishing the initial inspection in this AD. We will retain the flight and operating restrictions that AD 99–12–02 currently requires until this inspection is accomplished.

Why is the compliance of the initial inspection in hours time-in-service (TIS) and calendar time? We have established the compliance time of the initial inspection at the next 80 hours TIS or 12 months time with the prevalent one being that which occurs first. This would assure that cracks are detected on high usage airplanes while the owners/operators of the lower usage airplanes would have additional time to accomplish the action (up to 12 months). Having the inspection accomplshed on all airplanes within 12 months would assure that all wing spar cracks on the affected airplanes are detected in a reasonable time period, while not inadvertently grounding the affected airplanes. The FAA has determined that the dual compliance time will assure that the safety issue is addressed in a timely manner without inadvertently grounding any of the affected airplanes.

Cost Impact

How many airplanes does the proposed AD impact? The FAA estimates that 476 airplanes in the U.S. registry would be affected by the proposed AD.

What is the cost impact of the initial inspection on owners/operators of the affected airplanes? We estimate that it would take approximately 241 workhours per airplane to accomplish the proposed initial inspection, at an average labor rate of $60 an hour. Based on these figures, FAA estimates the cost impact of the proposed initial inspection on U.S. operators at $6,882,960, or $14,460 per airplane.

What about the cost of repetitive inspections and replacements? The figures above only take into account the cost of the proposed initial inspection and do not take into account the cost of repetitive inspections or the cost to replace a cracked wing spar assembly. The FAA has no way of determining the number of repetitive inspections each owner/operator would incur over the life of an affected airplane or the number of airplanes that would have a cracked wing spar(s) and need replacement.

The cost of each repetitive inspection would be $1,860 per airplane (31 workhours × $60 per hour).

Raytheon no longer produces wings spars for the affected airplanes. If a wing spar was found cracked, you would have to install an FAA-approved wing spar configuration in order to continue to operate the airplane. For cost estimate purposes, we are using information on installing a Raytheon Beech 55 or 58 series airplane wing spar on a Raytheon Beech Model A45 airplane in accordance with Supplemental Type Certificate (STC) No. SA5521NM. Nogle and Black Aviation, Inc., owns this STC. The cost to replace a cracked wing spar through this STC would be $14,100 (160 workhours × $60 per hour plus $4,500 for parts). The airplane would still be subject to the inspection requirements proposed in this NPRM.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed action (1) is not a ''significant regulatory action'' under Executive Order 12866; and (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). This proposed rule, if adopted, may have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. We are currently conducting a Regulatory Flexibility Determination and Analysis. We are considering alternative methods of compliance to the proposed AD that could minimize the impact on small entities. We specifically invite comments in this area.

At this point, we have determined that AD action is the best course to

address the unsafe condition specified in this document. We have also determined that the situation does not warrant waiting for the completion of the Regulatory Flexibility Determination and Analysis before we issue the NPRM. We will place a copy of the completed Regulatory Flexibility Determination and Analysis in the Docket file. You may obtain this information at the address specified in the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends Section 39.13 by removing Airworthiness Directive (AD) 99–12–02, Amendment 39–11193 (64 FR 31689, June 14, 1999), and by adding a new AD to read as follows:

Raytheon Aircraft Company: Docket No. 2000–CE–09–AD; Supersedes AD 99–12–02, Amendment 39–11193.

(a) *What airplanes are affected by this AD?* This AD applies to Beech Models 45 (YT–34), A45 (T–34A, B-45), and D45 (T–34B) airplanes, all serial numbers, certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct cracks in the wing spar assemblies and assure the operational safety of the above-referenced airplanes.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

(1) Actions retained from AD 99–12–02:

Action	When	In accordance with
I. Placard requirements: Fabricate two placards using letters of at least 1/10-inch in height with each consisting of the following words: ''Never exceed speed, Vne–175 MPH (152 knots) IAS; Normal Acceleration (G) 1999 Limits −0, and +2.5; ACROBATIC MANEUVERS PROHIBITED.'' Install these placards on the airplane instrument panels (one on the front panel and one on the rear panel) next to the airspeed indicators within the pilot's clear view. Insert a copy of this AD into the Limitations Section of the Airplane Flight Manual (AFM).	I. All actions prior to further flight with after July 9, 1999 (the effective date of AD 99–12–02).	I. Not Applicable.
II. Modification requirements: Modify the airspeed indicator glass by accomplishing the following: 1. Place a red radial line on the indicator glass at 175 miles per hour (mph) (152 knots). 2. Place a white slippage index mark between the airspeed indicator glass and the case to visually verify that the glass has not rotated. Mark the outside surface of the ''g'' of meters with lines of approximately 1/16-inch by 3/16-inch, as follows: 1. A red line at 0 and 2.5; and 2. A white slippage mark between each ''g'' meter glass and case to visually verify that the glass has not rotated.	II. All actions required within 10 hours time-in-service (TIS) after July 9, 1999 (the effective date of AD 99–12–02).	II. Not Applicable.

(2) Actions New to this AD:

Action	When	In accordance with
I. Inspect the wing spar assemblies for cracks.	I. Initially at whichever occurs first: ..... —Within 80 hours time-in-service (TIS) after the effective date of this AD; or. —Within 12 months after the effective date of this AD. Repetitively inspect thereafter at intervals not to exceed 80 hours TIS.	I. Raytheon Mandatory Service Bulletin No. SB 57–3329, Issued: February, 2000.
II. Replace any cracked wing spar assembly. A crack indication in the filler strip is allowed if the direction of the crack is toward the outside edge of the filler strip. If the direction of the crack is toward the inside of the filler strip or any crack is found in any other area, you must replace the cracked wing spar assembly prior to further flight.	II. Prior to further flight after the required inspection where the cracked wing spar assembly is found.	II. The applicable maintenance manual.

Action	When	In accordance with
III. Submit a report to the FAA that describes the damage found on the wing spar. Use the chart on pages 58 through 60 of Raytheon Mandatory Service Bulletin No. SB 57–3329, Issued: February, Submit this report even if no cracks are found.	III. Within 10 days after the initial inspection or within 10 days after the effective date of the AD, whichever occurs later.	III. Pages 58 through 60 of Raytheon Mandatory Service Bulletin No. SB 57–3329, Issued: February, 2000.
IV. The flight and operating restrictions that were required by paragraph (d)(1) of this AD, as retained from AD 99–12–02, may be changed by accomplishing the following: Remove the placards, modifications, etc. required by paragraph (d)(1) of this AD, as retained from AD 99–12–02. Fabricate two placards using letters of at least 1/10-inch in height with each consisting of the following words: ''Never exceed speed, Vne-225 MPH (219 knots) IAS; Normal Acceleration (G) Limits −0, +5.'' Install these placards on the airplane instrument panels (one on the front panel and one on the rear panel) next to the airspeed indicators within the pilot's clear view. Modify the airspeed indicator glass by accomplishing the following: 1. Place a red radial line on the indicator glass at 225 miles per hour (mph) (219 knots). 2. Place a white slippage index mark between the airspeed indicator glass and the case to visually verify that the glass has not rotated. Mark the outside surface of the ''g'' meters with lines of approximately 1/16-inch by 3/16-inch, as follows: 1. A red line at 0 and +5; and 2. A white slippage mark between each ''g'' meter glass and case to visually verify that the glass has not rotated. Insert a copy of this AD into the Limitations Section of the AFM.	IV. All actions required prior to further flight after the initial inspection provided the wing spar assembly is either replaced, is crack free, or only has a crack indication in the filler strip where the direction of the crack is toward the outside of the filler strip.	IV. Not applicable.

(e) *Can I comply with this AD in any other way?* (1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) This AD applies to each aircraft identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For aircraft that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(3) Alternative methods of compliance approved in accordance with AD 99–12–02, which is superseded by this AD, are not approved as alternative methods of compliance with this AD.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Paul Nguyen, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4125; facsimile: (316) 946–4407.

(g) *What if I need to fly the aircraft to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your aircraft to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 99–12–02, Amendment 39–11193.

Issued in Kansas City, Missouri, on April 27, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–11179 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–29–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Pratt

& Whitney JT8D series turbofan engines. This proposal would require inspections of main fuel pump control shafts for excessive spline wear. Additionally, as terminating action to the inspections, this proposal would require the replacement of the main fuel pump control shaft with parts of improved design, and reworking the main fuel pump impeller, impeller gear train plate assembly, and impeller cover assembly. This proposal is prompted by reports of failed main fuel pump control shafts caused by excessive spline wear. The actions specified by the proposed AD are intended to prevent loss of engine throttle control, uncommanded acceleration, uncommanded deceleration or inflight shutdown, which could result in reduced airplane control during a critical phase of flight.

DATES: Comments must be received by July 5, 2000.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–29–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone 860–565–8770, fax 860–565–4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone 781–238–7175, fax 781-238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NE–29–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–29–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received 51 reports of failed main fuel pump control shafts, which resulted in the loss of engine throttle control, uncommanded acceleration, uncommanded deceleration or inflight shutdown, on Pratt & Whitney (PW) Models JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, and –15A turbofan engines. In one incident, a Boeing 737–200 powered by two PW Model JT8D–15 engines experienced an uncommanded acceleration of the No. 2 engine during takeoff roll. The exhaust gas temperature (EGT) overtemperature indication light illuminated in the cockpit at approximately 110 knots. A takeoff abort was attempted but the No. 2 engine did not respond to the throttle movement. The airplane went off the side of the runway, sustained landing gear damage, and was destroyed by fire after all passengers and crew escaped. Four passengers were injured during the evacuation. The investigation revealed a failed main fuel pump control shaft. The main fuel pump control shaft failure was attributed to wear of the main fuel pump control shaft spline. This condition, if not corrected, could result in the loss of engine throttle control, uncommanded acceleration, uncommanded deceleration or inflight shutdown, which could result in reduced aircraft control during a critical phase of flight.

Service Information

The FAA has reviewed and approved the technical contents of PW Alert Service Bulletin (ASB) A6381 dated March 15, 2000, that describes procedures for inspecting the main fuel pump control shaft for excessive spline wear. As terminating action, PW ASB A6381 describes procedures for replacement of the main fuel pump control shaft with an improved wear resistant material shaft and reworking the main fuel pump impeller, impeller gear train plate assembly, and impeller cover assembly.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require inspecting main fuel pump control shafts for excessive wear, replacing the main fuel pump control shaft with parts of improved design, and reworking the main fuel pump impeller, impeller gear train plate assembly, and impeller cover assembly. The replacement and rework must be accomplished prior to accumulating 12,000 hours time-in-service (TIS) since last overhaul, or within 2,000 hours after the effective date of this AD, whichever occurs later. The actions would be required to be accomplished in accordance with the ASB described previously.

There are approximately 5,800 engines of the affected design in the worldwide fleet. The FAA estimates that 2962 engines installed on aircraft of US registry would be affected by this proposed AD, that it would take approximately 0.3 work hours to perform the required inspections and 0.5 hours per engine to accomplish the replacements proposed at overhaul, and that the average labor rate is $60 per work hour. Required parts would cost approximately $3,996 per engine. Based on these figures, the total cost impact of the proposed AD on US operators is estimated to be $11,978,328.

Regulatory Impact

This proposal does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposal.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket No. 99–NE–29–AD.

Applicability: Pratt & Whitney (PW) Models JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A turbofan engines, installed on but not limited to Boeing 727 and 737 series, and McDonnell Douglas DC–9 series airplanes.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of engine throttle control, uncommanded acceleration, uncommanded deceleration or inflight shutdown, which could result in reduced airplane control during a critical phase of flight, accomplish the following:

Initial Inspection

(a) At the next accessibility of the main fuel pump after accumulating 1,000 hours time in service (TIS) since last fuel pump overhaul, inspect, and replace, if necessary, the main fuel pump control shaft in accordance with procedures described in the Accomplishment Instructions of PW Alert Service Bulletin (ASB) A6381, dated March 15, 2000.

Repetitive Inspections

(b) Thereafter, reinspect the main fuel pump control shaft and remove and replace, if necessary, in accordance with intervals and procedures described in the Accomplishment Instructions of PW ASB A6381, dated March 15, 2000.

Installation and Terminating Action

(c) At the next main fuel pump overhaul, but prior to accumulating either 12,000 hours TIS since last fuel pump overhaul or 2,000 hours TIS after the effective date of this AD, whichever occurs later, install a reworked impeller, impeller gear train plate assembly and impeller cover assembly and a new main fuel pump control shaft in accordance with paragraph 2.A and 2.B. of PW ASB A6381, dated March 15, 2000. Installation of a reworked impeller, impeller gear train plate assembly and impeller cover assembly and a new main fuel pump control shaft in accordance with this paragraph constitute terminating action to the inspections required by paragraphs (a) and (b) of this AD.

Definitions

(d) For the purpose of this AD:

(1) Accessibility of the main fuel pump is defined as removal of the fuel control from the fuel pump or removal of the fuel pump from the engine.

(2) Main fuel pump overhaul is defined as compliance with the manufacturer's recommended overhaul procedures described in Argo-Tech Overhaul Manual 73–11–1.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the ECO.

Ferry Flights

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on May 1, 2000.

David A. Downey,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 00–11303 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–12]

Proposed Establishment of Class D Airspace; Stuart, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class D airspace at Stuart, FL. Air traffic controllers at Witham Field in Stuart, FL, are being certificated as weather observers. Therefore, the airport will meet criteria for Class D airspace. Class D surface area airspace is required when the control tower is open to accommodate current Standard Instrument Approach Procedures (SIAP) and for Instrument flight Rules (IFR) operations at the airport. This action would establish Class D airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of the Witham Field Airport.

DATES: Comments must be received on or before June 5, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–12, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions

presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASO–12.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class D airspace at Stuart, FL. Air traffic controllers at Witham field in Stuart, FL, are being certificated as weather observors. Therefore, the airport will meet criteria for Class D airspace. Class D surface area airspace is required when the control tower is open to accommodate current SIAP and for IFR operations at the airport. Class D airspace designations for airspace areas extending upward from the surface are published in Paragraph 5000 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, as amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO MS D Stuart, FL [New]

Witham Field Airport, FL
(Lat. 27°10′54″ N, long. 80°13′16″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of Witham Field Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice of Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on April 24, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–11321 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–14]

Proposed Establishment of Class E Airspace; Dunlap, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Dunlap, TN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for North Valley medical Center. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP.

DATES: Comments must be received on or before June 5, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–14, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in

developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASO–14.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Dunlap, TN. A GPS SIAP, helicopter point in space approach, has been developed for North Valley Medical Center. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO TN E5 Dunlap, TN [New]

North Valley Medical Center, Point in Space Coordinates.
(Lat. 35°23′50″N, long. 85°22′01″W)

That airspace extending upward from 700 feet or more above the surface within a 6-mile radius of the point in space (lat. 35°23′50″N, long. 85°22′01″W) serving North Valley Medical Center.

* * * * *

Issued in College Park, Georgia, on April 24, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–11323 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–10]

Proposed Amendment of Class E Airspace; Savannah, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class E surface area airspace at Savannah, GA. Hunter Army Air Field (AAF) is included in the Savannah Class D surface airspace area. However, when Hunter AAF control tower closes that segment of the Class D airspace area reverts to Class G airspace, as there is no remote communications to either Savannah Approach Control or Jacksonville Air Route Traffic Control Center (ARTCC) to control aircraft at Hunter AAF. Remote communications equipment is being installed and is expected to be operational on or about June 1, 2000. As a result, additional controlled airspace extending upward from the surface is needed to accommodate instrument flight rules (IFR) operations at Hunter AAF when Hunter AAF control tower is closed. This proposal will also make a technical amendment to the name of the location, changing it from Savannah International Airport, GA, to Savannah, GA.

DATES: Comments must be received on or before June 5, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–10, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch Air Traffic Division, Federal Aviation Administration, P.O. Box

20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASO–10.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarize each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E surface area airspace at Savannah, GA. Additional controlled airspace extending upward from the surface is needed to accommodate IFR operations at Hunter AAF when Hunter AAF control tower is closed. This proposal will also make a technical amendment to the name of the location, changing it from Savannah International Airport, GA, to Savannah, GA. Class E airspace designated as surface are published in Paragraph 6002 of FAA order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedure (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ASO GA E2 Savannah, GA [Revised]

Hunter AAF
(Lat. 32°00′35″N, long. 81°08′44″W)
Savannah International Airport
(Lat. 32°07′39″N, long. 81°12′08″W)

Within a 5-mile radius of Savannah International Airport and within a 4.5-mile radius of Hunter AAF. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Director.

* * * * *

Issued in College Park, Georgia, on April 24, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–11319 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–11]

Proposed Amendment of Class E Airspace; Livingston, TN.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class E airspace at Livingston, TN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Livingston Community Hospital, Livingston, TN. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP. This action proposes to amend the Class E airspace for Livingston, TN, to the southeast, in order to include the point in space approach serving Livingston Community Hospital.

DATES: Comments must be received on or before June 5, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–11, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental,and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to airspace Docket No. 00–ASO–11.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Livingston, TN.A GPS SIAP, helicopter point in space approach, has been developed for Livingston Community Hospital, Livingston, TN. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO TN E5 Livingston, TN [Revised]

Livingston Municipal Airport, TN
Lat. 36°24′44″N, long. 85°18′42″W
Livingston VORTAC
Lat. 36°35′04″N, long. 85°10′00″W
Livingston Community Hospital, Livingston, TN, Point In Space Coordinates.
Lat. 36°22′43″N, long. 85°20′23″W

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Livingston Municipal Airport and within 2 miles each side of the Livingston VORTAC 214° radial extending from the 7-mile radius to the VORTAC and that airspace within a 6-mile radius of the point in space (lat. 36°22′43″N, long. 85°20′23″W) serving Livingston Community Hospital, Livingston, TN.

* * * * *

Issued in College Park, Georgia, on April 24, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–11320 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–AGL–02]

Proposed modification of Class E Airspace; Marquette, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to modify Class E airspace at Marquette, MI. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 19 has been developed for Sawyer International Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action would increase that portion of the existing Class E airspace which extends upward from 1,200 feet above the

surface of the earth for Sawyer International Airport.

DATES: Comments must be received on or before June 22, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 00–AGL–02, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–AGL–02.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Marquette, MI, by increasing that portion of the existing Class E airspace which extends upward from 1,200 feet above the surface of the earth for Sawyer International Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain airspace executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this, is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFr 71.1 of the Federal Aviation Administration Order 7400.9g, Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Marquette, MI [Revised]

Marquette, Sawyer International Airport, MI
(Lat. 46°21′13″ N., long. 87°23′45″ W.)

That airspace extending upward from 700 feet above the surface within an 7.1-mile radius of the Sawyer International Airport, and that airspace extending upward from 1,200 feet above the surface within an area bounded on the north by latitude 47°05′ 00″ N., on the east by longitude 86°23′ 30″ W., on the south by latitude 45°45′00″ N., and on the east by V9; excluding all Federal Airways, Hancock, MI, Escanaba, MI, and Iron Mountain, MI, Class E airspace areas.

* * * * *

Dated: Issued in Des Plaines, Illinois on April 24, 2000.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 00–11324 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–13]

Proposed Establishment of Class E Airspace; Copperhill, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Copperhill, TN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Copperbasin Medical Center. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP.

DATES: Comments must be received on or before June 5, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–13, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASO–13.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Copperhill, TN. A GPS SIAP, helicopter point in space approach, has been developed for Copperbasin Medical Center. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by Reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS, ROUTES; AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E Airspace Extending Upward from 700 feet or More Aboce the Surface of the Earth.

* * * * *

ASO TN E5 Copperhill, TN [New]

Copperbasin Medical Center, Point in Space Coordinates
(Lat. 35°00′48″N, long. 84°22′25″W)
That airspace extending upward from 700 feet or more above the surface within a 6-mile radius of the point in space (lat. 35°00′48″N, long. 84°22′25″W) serving Copperbasin Medical Center.

* * * * *

Issued in College Park, Georgia, on April 24, 2000.

Nancy B. Shelton,

Acting Manager Air Traffic Division, Southern Region.

[FR Doc. 00–11322 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 310

Notice of 30-Day Extension in Comment Period in the Review of the Telemarketing Sales Rule

AGENCY: Federal Trade Commission.

ACTION: Rule review, notice of extension of comment period.

SUMMARY: The Federal Trade Commission (''the Commission'' or ''FTC'') has extended the comment period by which comments must be submitted concerning the review of its Telemarketing Sales Rule (''the Rule'' or ''TSR''). This document informs prospective commenters of the change and sets a new date of May 30, 2000, for the end of the comment period.

DATES: Written comments will be received until the close of business on May 30, 2000.

ADDRESSES: Six paper copies of each paper and/or written comment should be submitted to the Office of the Secretary, Federal Trade Commission, Room 159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If possible, comments should also be submitted in electronic form. To encourage prompt and efficient review and dissemination of the comments to the public, all comments should also be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a label on the disk stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS are preferred. Files from other operating systems should be submitted in ASCII text format to be accepted.) Individual members of the public filing comments need not submit multiple copies or comments in electronic form. Alternatively, the Commission will accept papers and comments submitted to the following email address: tsr@ftc.gov, provided the content of any papers or comments submitted by email is organized in sequentially numbered paragraphs. All submissions should be identified as ''Telemarketing Review—Comment. FTC File No. P994414.''

Papers and written comments will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission regulations, 16 CFR 4.9, on normal business days between the hours of 8:30 a.m. and 5:00 p.m. in Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. The Commission will make this notice and, to the extent possible, all papers or comments received in response to this notice available to the public through the Internet at the following address: *www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Catherine Harrington-McBride (202) 326–2452, email cmcbride@ftc.gov; Karen Leonard (202) 326–3597, email kleonard@ftc.gov; or Carole Danielson (202) 326–3115, email cdanielson@ftc.gov, Division of Marketing Practices, Bureau of Consumer Products, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On February 28, 2000, the Commission published a request for comment on its Telemarketing Sales Rule.[1] The Telemarketing and Consumer Fraud and Abuse Prevention Act (''the Telemarketing Act'' or ''the Act'') directed the Commission to promulgate rules to protect consumers from deceptive telemarketing practices and other abusive telemarketing activities. In response to this directive, the Commission adopted the TSR, which requires telemarketers to make specific disclosures of material information; prohibits misrepresentations; sets limits on the times telemarketers may call consumers; prohibits calls to a consumer who has asked not be called again; and sets payment restrictions for the sale of certain goods and services. The comment period is currently scheduled to close on April 27, 2000.

Several stakeholders that participated in the original rulemaking proceeding and in the recent public forum focusing on the Rule's do-not-call provision have expressed concern that there will not be sufficient time before April 27 to complete their responses to the Commission's Request for Comment. They have asked that the comment period be extended to complete their data collection. The Commission is mindful of the need to deal with this matter expeditiously. However, the Commission also is aware that the issues raised are complex and believes that the enhancement of the record that will be achieved by extending the comment period far outweighs any harm that might be caused by the delay.

Accordingly, the Commission has decided to extend the comment period to May 30, 2000. This extension will provide sufficient time for commenters to prepare useful comments. This extension will not affect the date of the public forum to discuss the TSR's provisions nor the date by which applications to participate in the forum must be received. The public forum will continue to be held on July 27–28, 2000, and notification of interest in participating in the forum must be submitted in writing on or before June 16, 2000, to Carole I. Danielson, Division of Marketing Practices, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

[1] 65 FR 10428 (February 28, 2000).

List of Subjects in 16 CFR 310

Telemarketing, Trade practices.

Authority: 15 U.S.C. 1601–1608.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–11314 Filed 5–4–00; 8:45 am]

BILLING CODE 6750–01–M

RAILROAD RETIREMENT BOARD

20 CFR Part 335

RIN 3220–AB44

Sickness Benefits

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) hereby proposes to amend its regulations under the Railroad Unemployment Insurance Act (RUIA) to permit a ''nurse practitioner'' to execute a statement of sickness in support of payments of sickness benefits under the RUIA. The Board does not currently accept statements executed by a nurse practitioner, which in some cases may delay payment of benefits.

DATES: Comments must be received on or before July 5, 2000.

ADDRESSES: Comments should be addressed to the Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, General Attorney, (312) 751–4929, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 335.2(a)(2) of the Board's regulations provides that in order to be entitled to sickness benefits under the RUIA, a claimant must provide a ''statement of sickness''. Section 335.3(a) of this part lists the individuals from whom the Board will accept a statement of sickness. That list does not currently include nurse practitioners. Nurse practitioners offer health care to people throughout the United States. Their practice emphasizes health promotion and maintenance, disease prevention, and the diagnosis and management of acute and chronic diseases. Nurse

practitioners are registered nurses with advanced education and clinical expertise that qualifies them to diagnose and treat illnesses and injuries. Under current regulations, the Board does not accept a statement of sickness or supplemental statement of sickness from a nurse practitioner. A claimant who submits a statement of sickness signed by a nurse practitioner is informed that the statement may not be accepted and is required to get a new one signed by an individual listed in § 335.3(a). This is administratively costly and delays the payment of sickness benefits. Thus, the Board proposes to add ''nurse practitioner'' to the list of individuals from whom it will accept a statement of sickness.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory analysis is required. The information collections contemplated by this part have been approved by the Office of Management and Budget under control number 3220–0039.

List of Subjects in 20 CFR Part 335

Railroad employees, Railroad unemployment insurance, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend title 20, chapter II of the Code of Federal Regulations as follows:

PART 335—SICKNESS BENEFITS

1. The authority citation for part 335 continues to read as follows:

Authority: 45 U.S.C. 362(i) and 362(l).

2. Section 335.3 is amended as follows: remove ''or'' at the end of paragraph (a)(9), remove the period and add ''; or'' at the end of paragraph (a)(10), and add a new paragraph (a)(11) to read as follows:

§ 335.3 Execution of statement of sickness and supplemental doctor's statement.

(a) * * *

(11) A nurse practitioner.

* * * * *

Dated: April 28, 2000.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 00–11220 Filed 5–4–00; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 900

[Docket No. 99N–4578]

RIN 0910–AB98

State Certification of Mammography Facilities; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of March 30, 2000 (65 FR 16847). The document proposes to implement the ''States as certifiers provisions'' of the Mammography Quality Standards Act of 1992 (the MQSA). In the March 30, 2000, proposed rule, there were two incorrect references to the provisions of the MQSA being implemented. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Ruth A. Fischer, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332, FAX 301–594–3306.

SUPPLEMENTARY INFORMATION: In FR Doc. 00–7653, appearing on page 16847 in the **Federal Register** of March 30, 2000, the following corrections are made:

1. On page 16847, in the first column, under the **SUMMARY**, in line 3, ''patient notification'' is corrected to read ''States as certifiers''.

2. On page 16848, in the first column, the heading in section D, ''*The Patient Notification Provisions*'' is corrected to read ''*The States as Certifiers Provisions*''.

Dated: April 15, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–11330 Filed 5–4–00; 8:45 am]

BILLING CODE 4160–01–F

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 95–7B]

Registration of Claims to Copyright, Group Registration of Photographs

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed regulations with request for comments.

SUMMARY: The Copyright Office of the Library of Congress is proposing regulations to facilitate group registration of published photographs. These proposed regulations differ significantly from regulations proposed earlier in this rulemaking proceeding, as they require the deposit of the actual photographic images, rather than merely written identifying descriptions, for registration purposes and as they pertain only to published photographs. This option for group registration of photographs is available only for registration of works by an individual photographer which are published within one calendar year. In addition, the Office also proposes to liberalize the deposit requirements for groups of unpublished photographs registered as unpublished collections. The Office is seeking comments only on these proposals.

DATES: Written comments on the proposed regulations should be received on or before June 19, 2000.

ADDRESSES: If sent BY MAIL, an original and 15 copies of written comments should be addressed to David O. Carson, General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. If delivered by hand, an original and 15 copies should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM–403, 101 Independence Avenue, SE., Washington, DC 20559.

FOR FURTHER INFORMATION CONTACT: David Carson, General Counsel, or Patricia L. Sinn, Senior Attorney Advisor, Telephone: (202) 707–8380. Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

Registration of a copyright can be made at any time during the term of statutory protection; however, with the exception of a three-month grace period dating from first publication, the law prohibits the award of statutory damages or attorney's fees where a work has not been registered before infringement occurs. 17 U.S.C. 412.

Under the 1976 Copyright Act, as amended, an applicant may register a claim in an original work of authorship with the Copyright Office by submitting a completed application, a fee, and a deposit of copies of the work to be registered. The nature of the copy to be deposited is set out in the statute in general terms, *e.g.*, one complete copy or phonorecord of an unpublished work,

and two complete copies or phonorecords of the best edition of a published work if first published in the United States. 17 U.S.C. 408(b). The Register of Copyrights may require or permit the deposit of identifying material instead of copies or phonorecords; and the Register may allow a single registration for a group of related works. 17 U.S.C. 408(c).

A. Legislative Intent

In explaining section 408(c), the House Judiciary Committee noted that it was intended to give the Register of Copyrights ''latitude in adjusting the type of material deposited to the needs of the registration system.'' H. R. Rep. No. 94–1476, at 153 (1976). It stated that ''Where the copies or phonorecords are bulky, unwieldy, easily broken, or otherwise impractical to file and retain as records identifying the work registered, the Register would be able to require or permit the substitute deposit of material that would better serve the purpose of identification. Cases of this sort might include, for example, billboard posters, toys and dolls, ceramics and glassware, costume jewelry, and a wide range of three-dimensional objects embodying copyrighted material. The Register's authority would also extend to rare or extremely valuable copies which would be burdensome or impossible to deposit.'' *Id.* at 154 (emphasis added).

Finally, Congress noted that the provision empowering the Register to allow a number of related works to be registered together as a group ''represents a needed and important liberalization of the law now in effect. At present the requirement for separate registrations where related works or parts of a work are published separately has created administrative problems and has resulted in unnecessary burdens and expense on authors and other copyright owners.'' *Id.* A group of photographs by one photographer was cited as one example where these results could be avoided by allowing a group registration.

B. Registration Concerns Expressed by Photographers

For some time the Copyright Office has been working with photographers to devise a registration system that works more effectively for photographers who have said that they find it difficult to register the many images they create due to concerns of time, effort and expense. At the same time, the procedure adopted must meet the requirement that the deposit adequately identify the work registered. Photographers have urged that the nature of much photography, where thousands of images may be created, particularly by free-lance photographers, with only a few images, if any, being published, makes registration difficult. They assert that at the time registration may be sought, the photographer may not know which photographs, if any, will be or have been published. Often a photographer's film is turned over to another party which processes and uses the images, leaving the photographer with nothing to deposit with the Copyright Office for registration purposes.

In an attempt to make registration easier for such photographers, the Office expanded its procedures regarding deposit materials for two and three dimensional works of the visual arts. For example, the Office accepts the deposit of a videotape or filmstrip as identifying material for collections of unpublished photographs. Despite the liberalization of deposit procedures, many photographers continued to urge that the requirement that they deposit a visual image of each photograph covered in the registration precludes them from registering. They claim that while they have been given a legal right by the copyright law, they have no effective remedy, thus leading to continued infringement of their works.

During congressional hearings on the proposed Copyright Reform Act of 1993, photographers stated that they could not take advantage of the benefits of copyright registration because the Office's practices were too burdensome in terms of the time and cost required to submit a copy of each image included in a collection of photographs.[1]

In June, 1993, the Librarian of Congress appointed an Advisory Committee on Copyright Registration and Deposit (ACCORD) to advise him ''concerning the impact and implications of the [proposed] Copyright Reform Act of 1993. . .'' Library of Congress, Advisory Committee on Copyright Registration and Deposit, *Report of the Co-Chairs,* vii (1993). The Committee recommended that the Office expand ''the use of group registration and optional deposit to reduce the present burdens'' and ''consult more actively and frequently with present and potential registrants to hear their problems and to respond to them whenever possible.'' *Id.* at 20.

C. Office's Further Attempts to Address Photographer's Concerns.

After the ACCORD report was issued, the Copyright Office met with photographers and their representatives and sought a workable solution for photographers which would not cause unforeseen problems for publishers, photofinishers, and other users of photographs. On December 4, 1995, the Office initiated a rulemaking proceeding by publishing proposed regulations with a request for comments. 60 FR 61657 (Dec. 4, 1995). The proposed regulations would have permitted individual photographers and photography businesses to make group registrations of mixed unpublished and published photographs with the deposit of identifying material consisting of written descriptions of the photos in a particular grouping rather than copies of individual photo images. The notice of proposed rulemaking also framed questions regarding possible consequences of adopting the proposed regulations which were much more liberal than anything the Office had previously proposed.

The proposed regulations elicited a great deal of controversy. In an effort to reach consensus, the Office held a public hearing and provided for an additional comment period. See 61 FR 28829 (June 6, 1996).[2] Some respondents approved the proposed regulations, in whole or in part, as aiding photographers in their desire for access to legal remedies. Others raised a number of concerns, the most serious of which is the value of the copyright deposit as an identification of the work registered and the question of whether descriptive identifying material serves as well as the deposit of the complete image of a photograph for a court's purposes. Some respondents claimed that based on past experience, it was likely that the proposed regulations would promote frivolous litigation targeting parties who unknowingly reproduced copies of copyrighted photographs without the copyright owner's permission. In response to this concern, industry representatives presented a set of proposed guidelines that not only would be followed by industry members who had previously agreed to them, but also were proposed to be included in, or referenced by, the Office's final regulations.

Another controversial issue highlighted by commenters was whether registration claimants who decided to use proposed group registration

[1] *See Copyright Reform Act of 1993: Hearings on H.R. 897 Before the Subcomm. on Intellectual Property and Judicial Administration of the House Comm. on the Judiciary,* 103d Cong., 1st Sess. 370–72 (1993). *See also, Copyright Reform Act of 1993: Hearing on S. 373 Before the Subcomm. on Patents, Copyrights and Trademarks of the Senate Comm. on the Judiciary,* 103d Cong., 1st Sess. 169 (1993).

[2] All comments and the transcript of the June 26, 1996, public meeting are available for inspection in the Copyright Office Public Information Office.

procedures would (or could), by making that choice, be forced by provisions of the industry agreement to waive rights to statutory damages and attorney's fees in innocent infringement determinations. Further comments concerned other registration requirements, identifying deposit information, effective date of registration, and consumer education about copyright law.

Professor Peter Jaszi, a member of the ACCORD advisory committee, asserted that although some specific and limited suggestions about how to address photographers' concerns were incorporated in recommendations made by the Librarian of Congress' advisory group ACCORD in response to the proposed 1993 Copyright Reform Act, ''there is little if anything in the ACCORD record which lends support to such a far-reaching revision of registration and deposit practice'' as was contained in the Office's proposed group registration regulations. Jaszi reply comments in RM 95–7 at 1.

D. Further Reflection on the 1995 Proposal

When the Office opened this rulemaking proceeding in 1995, its goals were to determine how to modify registration and deposit procedures to ensure deposit of works for the record, to register works to protect claimants, and ultimately to benefit the public by providing access to information on copyright status and ownership of photographic works. Its efforts to further liberalize deposit provisions for photographers led to what seemed insurmountable differences about the purpose of the copyright deposit which could not be resolved to the satisfaction of all interested parties. Although the rulemaking proceeding has remained open for a considerable period of time, the Office has continued to consider the issues raised in the proceeding and in other contexts (*e.g.,* the adjustment of registration fees and other statutory fees). It has also determined that it should reexamine the purpose of the section 408 copyright deposit for all classes of works and expects to publish a Notice of Inquiry to begin the study this year. Meanwhile, the Office is reluctant to implement a procedure that would permit the acceptance of deposits that do not meaningfully reveal the work for which copyright protection is claimed.

The Office has decided that it should move forward with a more modest proposal which would permit group registration of related published photographs. Since this rulemaking proceeding commenced in 1995, there have been advances in the technology that permits the taking and/or preservation of photographs in digital form, and in the commercial availability of such technology. The Office expects that such advances over the next several years will make identification and imaging of photographs for registration purposes even easier so that registration will become more readily available for photographers.

II. Group Registration of Photographs Published in the Same Calendar Year

Continued reflection on the issue suggested a possible alternative that would give many photographers a more flexible group registration procedure by permitting registration of multiple photographs created by one photographer which are published on different dates but in the same calendar year. The Office is now proposing regulations that would permit such an alternative. A.

A. Works Covered and Required Identification.

Each submission for group registration must contain photographs by an individual photographer that were all published [3] within the same calendar year. The claimant(s) for all photographs in the group must be the same. The date of publication for each photograph must be indicated either on the individual image or on the registration application or application continuation sheet in such a manner that for each photograph in the group, it is possible to ascertain the date of its publication. However, the Office will not catalog individual dates of publication; the Copyright Office catalog will include the single publication date or range of publication dates indicated on the Form VA. If the claimant uses a continuation sheet to provide details such as date of publication for each photograph, the certificate of registration will incorporate the continuation sheet, and copies of the certificate may be obtained from the Copyright Office and reviewed in the Office's Card Catalog room.

The Office notes that although it will accept group registration claims for all photographs published within a calendar year, an applicant who wishes to ensure that he is eligible for statutory damages and attorney's fees must register within three months of publication. 17 U.S.C. 412. Applicants would be well-advised to submit a group registration claim within each three-month period in which any photographs in the group were published.

The Office recognizes that some commenters have previously expressed the view that photographers sometimes have difficulty knowing exactly when—or even whether [4]—a particular photograph has been published. With respect to date of publication, it should be noted that the Office's longstanding practices permit the claimant some flexibility in determining the appropriate date. See, *e.g.,* Compendium of Copyright Office Practices, Compendium II, § 910.02 (1984) (Choice of a date of first publication).[5]

Notwithstanding such concerns, the Office has concluded that it cannot establish a group registration procedure that permits claimants to include both published and unpublished photographs within a single group registration due to their inability to determine whether a particular photograph has been published. A procedure permitting inclusion of both published and unpublished works in a single registration would be unprecedented and would ignore critical distinctions between the copyright law's treatment of published works and its treatment of unpublished works. See, *e.g.,* 1 Melville B. Nimmer and David Nimmer, Nimmer on Copyright § 4.01[A] (1999). Moreover, an application for copyright registration must identify the date and nation of first publication for each published work. 17 U.S.C. 409(8). That statutory requirement would be inconsistent with a procedure that permitted claimants to refrain from identifying whether a particular photograph has been published.

The Office also requests comments on whether applications for group registration of photographs should be permitted to state a range of dates of up to three months (*e.g.,* January 1–March

[3] The definition of ''publication'' in the 1976 Copyright Act, as amended, is as follows: ''Publication'' is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication. 17 U.S.C. 101.

[4] The Compendium of Copyright Office Practices, Compendium II, § 904 states the Office's general practice with respect to publication, including that ''The Office will ordinarily not attempt to decide whether or not publication has occurred but will generally leave this decision to the applicant.''

[5] ''1) Where the applicant is uncertain as to which of several possible dates to choose, it is generally advisable to choose the earliest date, to avoid implication of an attempt to lengthen the copyright term, or any other period prescribed by the statute. ''2) When the exact date is not known, the best approximate date may be chosen. In such cases, qualifying language such as 'approximately,' 'on or about,' 'circa,' 'no later than,' and 'no earlier than,' will generally not be questioned.''

31, 2001) in which all the photographs in the group were published, rather than stating specific dates of publication for each photograph. The Office would consider such an alternative only if it were persuaded that requiring specific dates of publication for each photograph would impose an unjustifiable and burdensome hardship on photographers, and that the advantages (to claimants and to the public record) of such an alternative would outweigh its disadvantages.

The Office believes that it would be beneficial and would create a clearer public record if claimants are required to number the photographs in a group consecutively (*e.g.,* from 1 to 500), and to indicate the number of each photograph on or affixed to the individual image of the photograph that is deposited. The Office requests comments on whether such a requirement would be desirable.

B. Use of the Appropriate Form, Deposit, and Fee

To register qualified works as a group, an applicant should submit an application Form VA, with the appropriate fee and a deposit consisting of an image of each photograph included in the group. The statutory requirement of a deposit of two complete copies of the best edition of each published photograph is waived, and a claimant may submit a single copy of each image in any of the following formats: Iimages in digital form on CD–ROM or DVD–ROM; single images (prints, at least 3 inches by 3 inches and preferably archivally-processed on fiber-based paper); contact sheets (preferably archivally-processed on fiber-based paper); slides with single images; slides each containing up to 36 images; or multiple images on video tape. In addition, any or all of the photographs may be deposited in the format in which they were originally published, such as clippings from a newspaper or magazine. The Office seeks comment on whether there are other formats for deposit of full images of photographs that will minimize the burden on photographers while providing the Office and the public record with accessible and usable images. The Office also seeks comment on what file formats should be acceptable for photographs submitted on CD–ROM.

The Office also seeks comments on whether it should provide an optional specialized continuation sheet, similar to Form GR/CP (the adjunct application form for group registration of contributions to periodicals), which could provide specific information (*e.g.,* title or other description, date of publication) about each photograph included in the group.

C. How Many Photographs May Be Included in One Registration?

Due to administrative and workload considerations, a maximum of 500 photographs may be included in a single group registration. The approximate number of photographs in the group submitted must be indicated on the application.

D. Relationship of This New Procedure to Other Types of Registration of Photographs

Registration and deposit requirements for unpublished photographs remain unchanged, and may be found in 17 U.S.C. 408(b)(1) and 37 CFR 202.20(b)(1)(i), and (c)(4)(xix). Registration for individual photographs may still be made using a Form VA, submitted with a registration fee of $30.00 and a copy of the photograph which complies with the existing deposit requirements found at 37 CFR 202.20.

Unpublished collections of photographs may be registered pursuant to the requirements set forth in 37 CFR 202.3(b)(3). The new liberalized deposit requirements of 37 CFR 202.20(c)(2)(xx), discussed above in section C for group registration of published photographs, shall also apply to deposit of unpublished collections of photographs. Thus, photographers will be able to register groups of unpublished photographs in much the same manner as that in which they can register groups of published photographs.

III. Public Comment

The Copyright Office is seeking comment only on the rules proposed in this notice. Reargument of issues raised earlier in this rulemaking that have, at this point, been rejected by the Office (*e.g.,* acceptance of descriptive identifying material as deposits in lieu of actual images) will not be productive. Following review of comments, the Office will adopt final regulations. Interested parties are invited to submit comments on the following points:

1. Under the proposed regulations, a claimant must identify the date of publication of each image published within the same calendar year and submitted for registration. As deposit copies, the Office will accept images in digital form on CD–ROM or DVD–ROM; single images; contact sheets; slides with single images; slides each containing up to 36 images; or multiple images on video tape. The Office will also accept copies of the photographs in the formats in which they were originally published (*e.g.,* clippings from newspapers or magazines). The final regulation will specify how dates must be provided for each photograph in the group in such a way that for each photograph, one can ascertain its date of publication. Recommendations about the best methods for providing this information are invited now. In the proposed regulations, applicants will have the option of identifying each photograph and its date of publication separately on a continuation sheet or of indicating the date of publication on each photograph itself. For example, if separate photographic prints were deposited, the date of publication of each photograph could be written on the back of the print. However, for other formats (*e.g.,* CD–ROM, slides containing up to 36 images, videotapes, contact sheets), other ways of indicating the date of publication for each image will be necessary.

A. Comments are invited on how the date of publication of each photograph can be indicated on the deposit itself for deposits made in such formats, and how each date can be connected to the pertinent photograph.

B. Comments are also invited on how the date of publication of each photograph can be indicated on a continuation sheet, and how each date of publication entry on the continuation sheet can be related to a particular photograph or photographs. For example, if the continuation sheet is used, should each photograph be numbered consecutively; and for each photograph, should that number be written or otherwise indicated on the corresponding copy of the photograph that is deposited?

C. Comments are also invited on whether the Office's general continuation sheet, Form CON, should be used for this purpose or whether the Office should provide an optional specialized continuation sheet, similar to Form GR/CP (the adjunct application form for group registration of contributions to periodicals), which could provide specific information (*e.g.,* title or other description, date of publication) about each photograph included in the group.

2. Comments are invited on whether claimants should be required to number the photographs in a group consecutively (*e.g.,* from 1 to 500), and to indicate the number of each photograph on or affixed to the individual image of the photograph that is deposited. Would such a numbering requirement assist in identifying dates of publication of each photograph when a continuation sheet is used, as

suggested in question 1.B. above? Would such a requirement assist in creating a clearer public record? How burdensome would such a requirement be?

3. Should the Office accept deposits in formats other than those mentioned in item 1? If so, what other formats should be accepted? Each format must be capable of providing a complete image of each photograph in the group.

4. For photographs submitted on CD–ROMs or in other electronic formats, what file formats (*e.g.,* JPEG, GIF, etc.) should be accepted, and why?

5. As an alternative to requiring a claimant to provide the date of publication of each photograph in the group, should the Office consider offering the alternative of providing a range of dates over a three-month period (*e.g.,* January 1–March 31, 2001)? What would be the advantages and disadvantages—to claimants and to the public record -of such an approach?

List of Subjects in 37 CFR Part 202

Claims, Copyright.

Proposed Rule

In consideration of the foregoing, the Copyright Office proposes to amend 37 CFR part 202 in the manner set forth below:

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

1. The authority citation for part 202 is revised to read as follows:

Authority: 17 U.S.C. 408, 702.

2. In section 202.3, paragraph (b)(9) is redesignated as paragraph (b)(10), and a new paragraph (b)(9) is added to read as follows:

§ 202.3 Registration of copyright.

* * * * *

(b) * * *

(9) Group registration of published photographs. Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights will accept a single application (on Form VA), deposit and filing fee for registration of a group of at least two and no more than 500 photographic works if the following conditions are met:

(i) The author of all the photographic works submitted for registration as part of the group must be the same person.

(ii) The copyright claimant in all of the photographic works must be the same.

(iii) The photographs in the group must have been published within the same calendar year.

(iv) The date of publication of each work within the group must be identified either on the deposited image, on the application form, or on a continuation sheet, in such a manner that one may specifically identify the date of publication of any photograph in the group. If the photographs in a group were not all published on the same date, the range of dates of publication (*e.g.,* January 1–March 31, 2001) should be provided in space 3b of the application.

(v) The deposit(s) and application must be accompanied by the fee set forth in § 201.3(c) of this chapter for a basic registration using Form VA.

(vi) The applicant must note on the application Form VA the approximate number of photographs included in the group.

(vii) As an alternative to the best edition of the work, one copy of each photographic work shall be submitted in one of the formats set forth in § 202.20(c)(2)(xx).

* * * * *

3. Section 202.20 is amended by adding a new paragraph (c)(2)(xx) to read as follows:

§ 202.20 Deposit of copies and phonorecords for copyright registration.

* * * * *

(c) * * *

(2) * * *

(xx) Photographs: group registration. For groups of photographs registered with one application under § 202.3(b)(3) or § 202.3(b)(9), photographs must be deposited in one of the following formats (listed in the Library's order of preference):

(A) Digital form on one or more CD–ROMs (including C–RW's) or DVD–ROMs;

(B) Unmounted prints measuring at least 3 inches by 3 inches (not to exceed 20 inches by 24 inches) submitted on fiber-based paper;

(B) Contact sheets on fiber-based paper;

(C) Slides, each with a single image;

(E) The form in which each photograph was originally published (*e.g.,* clippings from newspapers or magazines);

(F) Slides, each containing up to 36 images; or

(G) A videotape clearly depicting each photograph.

* * * * *

Dated: April 25, 2000.

Marybeth Peters,

Register of Copyrights

Approved By:

James H. Billington,

The Librarian of Congress.

[FR Doc. 00–10986 Filed 5–4–00; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350, 390, 394, 395, and 398

[Docket No. FMCSA–97–2350]

RIN 2126–AA23

Public Hearing on Hours of Service of Drivers; Driver Rest and Sleep for Safe Operations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of hearings.

SUMMARY: The FMCSA is announcing the first of seven public hearings for interested persons to present comments and views on the FMCSA's proposed revisions to its hours-of-service regulations (65 FR 25540, May 2, 2000). This action is necessary to inform the public about the date, time, and structure of the first hearing. The FMCSA hopes to hear from the public about how the proposed hours-of-service regulations would improve highway safety, affect the personal, professional, and family life of commercial vehicle drivers, and the impact on the various segments of the motor carrier industry. All oral comments will be transcribed and placed in the rulemaking docket for the FMCSA's consideration.

DATES: The first of seven sessions will be held on Wednesday May 31 and Thursday June 1, 2000, beginning at 8:30 a.m. and ending at 5 p.m. The dates and times for sessions 2 through 7 will be announced in the near future.

ADDRESSES: The first session will be held at the DOT Headquarters building, Room 2230, 400 Seventh Street, SW., Washington, DC 20590–0001. The locations for sessions 2 through 7 will be held at sites convenient for truck and motor coach parking in Atlanta, GA; Denver, CO; Los Angeles, CA; Indianapolis, IN; Kansas City, MO; and the Springfield, MA/Hartford, CT area.

FOR FURTHER INFORMATION CONTACT: *General Information.* To request time to be heard at the Washington, D.C. hearing and for other general information about all the sessions contact Mr. Stanley Hamilton, Office of Regulatory Development, (202) 366–0665. *Specific Information.* For information concerning the rulemaking contact Mr. David Miller, Office of Driver and Carrier Operations, (202) 366–1790, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366–1354.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's web page at *http://www.access.gpo.gov/nara.* Internet users may also find this document at the FMCSA's Motor Carrier Regulatory Information Service (MCREGIS) web site for notices at *http://www.fmcsa.dot.gov/rulesregs/fmcsr/rulemakings.htm.*

Background

Structure of Washington Hearing

Speakers must limit their oral presentations to no more than 10 minutes duration. Presenters may submit additional written documentation to be placed in the public docket.

The public hearing will be subdivided and the FMCSA will seek comments on specific topics during the prescribed time period, as follows:

Day One

1. Opening remarks—8:30 a.m.
2. Supportive science—8:45 a.m. to 3 p.m., with general comments about any subject from 3:15 to 4:30 p.m.

Day Two

3. Daily cycle (18, 24, other) and weekly cycle (7-day, 168-hour, other)—8:30 a.m. to 10:30 a.m.
4. Minimum rest period to recover from cumulative multi-day fatigue—10:45 a.m. to noon.
5. Work-rest requirements for various types of operations—1 to 2 p.m.
6. Information collection methods and requirements, including electronic on-board recorders and Department of Labor time records—2 to 3 p.m.
7. General comments—3:15 to 4:30 p.m.

Washington Participants

All persons who would like to present comments must notify Mr. Stan Hamilton by telephone at (202) 366–0665 by 4 p.m. e.t., no later than May 26, 2000. All persons attending will be subject to Federal and DOT workplace security measures. All persons will need photo identification and must display the identification to DOT security officers. All persons will be required to sign in at the guard's desk, walk through metal detectors, and be subject to random search. All visitors will be required to wear a ''Visitor'' tag at all times while in the building. Persons failing to satisfy security requirements will be denied entry and forfeit their opportunity to participate in the hearing. Such persons may, however, submit their written comments by the close of business on July 31, 2000, to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20950–0001.

Authority: 49 U.S.C. 322, 31502, and 31136; and 49 CFR 1.73.

Issued on: May 2, 2000.

Brian M. McLaughlin,

Director, Office of Policy Plans and Regulations.

[FR Doc. 00–11334 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No 990910253–0118–02; ID No. 041300C]

RIN 0648–AM90

Endangered and Threatened Species; Proposed Endangered Status for White Abalone

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS has completed a comprehensive status review of the white abalone (*Haliotis sorenseni*) under the Endangered Species Act (ESA). Based on the findings from the status review and a review of the factors affecting the species, NMFS has concluded that white abalone is in danger of extinction throughout a significant portion of its range. Accordingly, NMFS is now issuing a proposed rule to list white abalone as an endangered species. NMFS is not proposing to designate critical habitat for white abalone at this time, but is requesting public comments on the issues pertaining to this proposed rule.

DATES: Comments must be received no later than 5 p.m., Pacific daylight time, on July 5, 2000.

Requests for public hearings must be received by June 19, 2000. If NMFS receives a request for public hearings, it will announce the dates and locations of the public hearings in a later **Federal Register** notice.

ADDRESSES: Comments on this proposed rule and requests for public hearings or reference materials should be sent to the Assistant Regional Administrator, Protected Resources Division, NMFS, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Comments may also be sent via facsimile (fax) to 562–980–4027, but they will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Irma Lagomarsino, 562–980–4020; or Marta Nammack/Terri Jordan, 301–713–1401, or send a request via electronic mail to whiteab.info@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Based on information indicating a major decline in abundance, NMFS designated the white abalone, a marine invertebrate, as a candidate species under the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), on July 14, 1997 (62 FR 37560). In August 1998, NMFS contracted with Scripps Institution of Oceanography (SIO) to conduct a review of the biological status of white abalone, including the current and historical impacts to the species. NMFS received the draft status review on April 21, 1999, from SIO. In order to obtain an independent peer-review, NMFS requested that three non-federal scientists review and report on the scientific merits of the status review. By August 1999, NMFS received these anonymous reviews; NMFS scientists also reviewed the document. Subsequently, SIO incorporated all of these comments into the status review, and submitted the revised final status review document to NMFS on March 20, 2000.

NMFS received a petition on April 29, 1999, from the Center for Biological Diversity and the Southwest Center for Biological Diversity to list white abalone as an endangered species on an emergency basis and designate critical habitat under the ESA. On May 17, 1999, NMFS received a second petition to list white abalone as an endangered species throughout its range and designate critical habitat under the ESA from the following organizations: the Marine Conservation Biology Institute, Abalone and Marine Resources Council, Sonoma County Abalone Network, Asociacion Interamericana para la Defensa del Ambiente, Channel Islands

Marine Resource Institute, Proteus SeaFarms International, and the Environmental Defense Fund and Natural Resources Defense Council. NMFS considers this second request as supplemental information to the first petition.

On September 24, 1999, NMFS published its 90-day finding regarding the April 29, 1999, petition to list white abalone as an endangered species (64 FR 51725). It concluded that the April 29, 1999, petition presented substantial scientific and commercial information indicating that a listing may be warranted, based on criteria specified in 50 CFR 424.14(b)(2). However, NMFS did not find that the petition presented substantial evidence to warrant listing of white abalone on an emergency basis. To ensure that the ongoing white abalone status review was complete and based on the best available scientific and commercial data, NMFS's 90-day finding also solicited information and comments on (1) whether white abalone is endangered or threatened; (2) factors that have contributed to the decline of white abalone; and (3) any efforts being made to protect the species throughout its range. The comment period ended on November 23, 1999.

On November 23, 1999, NMFS received a letter from the Center for Marine Conservation (CMC) strongly recommending that NMFS list white abalone as an endangered species on an emergency basis under section 4(b) of the ESA and immediately implement recovery measures. Based on conclusions reported in Davis *et al.* (1996 and 1998), CMC stated that white abalone has not been able to recover from overharvesting and faces inevitable extinction in the near future unless measures are taken to recover the species. CMC believes that an emergency listing will benefit white abalone because NMFS could then initiate the recovery planning process. Similar to the conclusion in the 90-day finding notice (64 FR 51725, September 24, 1999), NMFS believes that there is insufficient information to warrant listing white abalone on an emergency basis under the ESA at this time and that the normal rulemaking procedures are sufficient and appropriate for the protection of white abalone. Based on its review of the petition and on other available information, NMFS believes the decline of white abalone in California is primarily the result of overharvesting in the early 1970s. By March 1996, the State of California closed commercial and recreational fishing for white abalone. Also, the best available information indicates that white abalone habitat is not currently at risk from destruction or modification. Thus, NMFS concludes that no emergency exists to pose a significant risk to the well-being of the species and that an emergency listing is not warranted at this time.

Abalone Life History and Ecology

Abalone are marine gastropods belonging to the family Haliotidae and genus *Haliotis* and are characterized by a flattened spiral shell (Haaker, 1986; Hobday and Tegner, 2000a). Abalone have separate sexes and are broadcast spawners, releasing millions of eggs or sperm during a spawning event. Fertilized eggs hatch and develop into free-swimming larvae, spending from 5 to 14 days as non-feeding zooplankton before development (i.e., metamorphosis) into the adult form. After metamorphosis, they settle onto hard substrates in intertidal and subtidal areas. Abalone grow slowly and have relatively long lifespans of 30 years or more. Young abalone (referred to as ''cryptic abalone'') seek cover in rocky crevices, under rocks, and deep crevices, feeding on benthic diatoms, bacterial films, and single-celled algae found on coralline algal substrate (Cox, 1962). As abalone grow and become less vulnerable to predation at about 75–100 mm (2.9–3.9 inches) in length, they emerge from secluded habitat to more open, visible locations where their principal food source, attached or drifting algae, is more available (Cox 1962). In dive surveys, these animals are classified as ''emergent'' abalone. Abalone lead a relatively sedentary lifestyle. Although juveniles may move tens of meters per day, adult abalone have extremely limited movements as they increase in size (Cox, 1962; Tutschulte, 1976; Shephard, 1973).

Successful abalone recruitment has been related to the interaction between spawning density, spawning period and length, and fecundity (Hobday and Tegner, 2000a). At low adult densities, fertilization success is much reduced. When males and females are greatly separated, fertilization success may be negligible and recruitment failure will likely occur (Hobday and Tegner, 2000a).

White Abalone

Eight species of *Haliotis* occur along the west coast of North America. Historically, white abalone ranged from Point Conception, California, U.S.A., to Punta Abreojos, Baja California, Mexico. Although studies have recognized possible population structure in other *Haliotis* species, no studies have identified distinct populations of white abalone (Hobday and Tegner, 2000a). As its name suggests, the shell of *Haliotis sorenseni* is white—the adult body is characterized by a mottled orange tan epipodium. Tutschulte (1976) reported that white abalone are not as cryptic as other California abalone species.

White abalone is the deepest-living of the west coast *Haliotis* species (Hobday and Tegner, 2000), usually reported at subtidal depths of between 20–60 m (66–197 ft) and historically most ''abundant'' between 25–30 m (80–100 ft) (Cox, 1960; Tutschulte, 1976). At these depths, white abalone are found in open low relief rock or boulder habitat surrounded by sand (Tutschulte, 1976; Davis *et al.*, 1996).

White abalone may be limited to depths where algae grow, a function of light levels and substrate availability, because they are reported to feed less on drift algae and more on attached brown algae (Tutschulte, 1976; Hobday and Tegner, 2000a). The upper and lower limits of white abalone depth distribution could also be influenced by temperature effects on larvae and juvenile survival. Leighton (1972) found that white abalone larval survival is reduced at lower temperatures. Tutschulte (1976) speculated that white abalone may have been restricted to depths below 25 m (82 ft) by predation from sea otters when sea otter and white abalone latitudinal ranges overlapped or from competition with pink abalone and predation by octopuses.

Maximum shell length recorded for white abalone in California and Mexico is 20–25 cm (7.8–9.8 inches) and 17 cm (6.6 inches), respectively. However, ''average'' observed size is about 13–20 cm (5–8 inches), and animals that are less than 10 cm (4 inches) are rare (Cox, 1960). White abalone reach sexual maturity at a size of between 88 and 134 mm (3.4–5.2 inches) in approximately 4 to 6 years and spawn in the winter, between February and April (Tutschutle, 1976; Tutschutle and Connell, 1981). Compared to two other California species, white abalone have a high degree of spawning synchronicity wherein most males and females spawn in a relatively short time period. Based on a peak in 5-year old animals prior to the peak of the white abalone fishery, Tutschulte (1976) suggested that white abalone have irregular recruitment. Tutschulte (1976) estimated that maximum lifespan of white abalone is 35 to 40 years.

In the laboratory, settlement of white abalone larvae occurred after 9 to 10 days at 15 ^{o}C (59^{o}F) (Leighton, 1972). This larval period is longer than periods reported for other California abalone species (Hobday and Tegner, 2000a). Drift tube studies have found that larval

periods of most abalone species would not usually be long enough for regular dispersal of abalone between islands and mainland areas (Tegner and Butler, 1985b). Since they have a relatively long larval period, potential dispersal distances may be greater for white abalone than those other of abalone species (Hobday and Tegner, 2000a).

Status of White Abalone

Section 3 of the ESA defines the term ''endangered species'' as any species that is in danger of extinction throughout all or a significant portion of its range. The term ''threatened species'' is defined as ''any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' NMFS identified a number of factors that should be considered in evaluating the level of risk faced by a species, including (1) current abundance in relation to historical abundance; (2) trends in abundance; (3) spatial and temporal distribution and effective population size, and (4) natural and human influences. NMFS has evaluated these factors to aid in determining the status of white abalone.

1. Current Abundance in Relation to Historical Abundance

a. *Historical Abundance*. Estimates of pre-exploitation abundance of white abalone may be made from both fishery-independent and fishery-dependent data and by using an estimate of the total area of white abalone habitat within the species range. Based on a historical range between Point Conception and Punta Eugenia and on the assumption that 3 percent of the area within depth contours of 25 to 65 m (82–213 ft) is rocky reef habitat, Davis *et al.* (1998) estimate total area of white abalone habitat throughout the species' range to be 966 hectares (ha). Using Tutschulte's (1976) density estimate of 0.23 white abalone/m^2, Hobday and Tegner (2000a) estimated a pre-exploitation abundance of 2,221,800 animals. Alternatively, Hobday and Tegner (2000a) calculated another pre-exploitation population abundance estimate for white abalone using data from Mexico. Using fishery-independent data from abalone surveys conducted by Guzman and Proo *et al.* (1976) between 1968 and 1970 along the west coast of Baja California, Mexico, within the depth contours between 0 to 27 m (0–89 ft), Hobday and Tegner (2000a) estimated that the pre-exploitation population size in Mexico was 2.12 million individuals. Hobday and Tegner (2000a) then doubled this estimate to account for white abalone in California and calculated a pre-exploitation estimate of white abalone abundance of 4.24 million animals throughout the range of the species. This estimate incorrectly assumes that white abalone were found throughout the area surveyed (i.e., in southern Baja, California) and, thus, this calculation may overestimate white abalone abundance.

Hobday and Tegner (2000a) also calculated a pre-exploitation abundance of white abalone using fishery-dependent data. Between the peak years of white abalone exploitation in California, approximately 605,807 lb (274,792 kg) of white abalone were landed. (Assuming 1.67 lbs (.76 kg)/animal, 362,759 animals were harvested). Since it would have taken 10 years for white abalone to reach California's legal size limit, and the fishery collapsed after only 10 years of exploitation, Hobday and Tegner (2000a) assume that all legal-sized adults were harvested every year. If total catch in the 10-year period represents the total accumulated virgin stock and there was no recruitment, Hobday and Tegner (2000a) estimate the former California population size equals the total catch between 1969 and 1978, namely 362,759 animals. If this figure is doubled to include Mexico, the historical abundance estimate is 725,518 white abalone throughout its historical range. However, the actual pre-exploitation abundance must have been greater because some white abalone were harvested in subsequent years, some animals were lost to natural mortality, and white abalone from the recreational catch were not included in the estimate. Not all of the pre-exploitation estimates account for cryptic white abalone.

b. *Current Abundance*. Using a research submersible vessel, the first deep-reef surveys for white abalone were conducted near Santa Barbara, Anacapa, and Santa Cruz Islands, and on Osborn Bank in 1996 and 1997 (Davis *et al.*, 1998). After searching 77,070 m^2 (829,601 ft^2) of rocky reef between 27 and 67 m (89 and 220 ft) depth, only nine live white abalone were found. Assuming that population densities of white abalone estimated from these surveys (i.e., 0.000167 white abalone/m^2, plus or minus 0.0001) were representative of white abalone densities throughout their entire range and that the total available habitat within the species range is 966 ha (2,386 acres), Hobday and Tegner (2000a) estimate that the 1996/1997 population size throughout the entire range of the species was 1,613 white abalone. They conclude from these results that white abalone are absent or at extremely low densities at all depths and areas surveyed. Using these same data, Davis *et al.* (1998) estimated that fewer than 1,000 white abalone existed in 1996/1997 throughout the species range and concluded that these submersible surveys both confirmed the ''critically low'' population density and demonstrated the lack of a *de facto* refugia beyond normal scuba depths.

In October 1999, scientists conducted another deep-reef survey for white abalone near Santa Cruz, Anacapa, Santa Barbara, San Clemente and Santa Catalina Islands and on Osborn, Farnsworth, Tanner and Cortez Banks using a submersible vessel (Haaker *et al.*, 2000; Hobday and Tegner, 2000b). In contrast to the 1996/1997 submersible surveys, the areas selected for the October 1999 study were the areas where the greatest amount of white abalone had been removed by the commercial and recreational fisheries in the 1970s (Hobday and Tegner, 2000a). This survey covered approximately 57.5 ha (142 acres) (Haaker *et al.*, 2000) of suitable white abalone habitat, at a depth between 19 and 65 m (62 and 213 ft), and found 157 live white abalone (average density = 0.00027 white abalone/m^2 or 2.7 white abalone per ha).

The 1996/1997 and 1999 submarine surveys for white abalone in California covered approximately 6 percent of the estimated 966 ha (2,386 acres) of suitable habitat throughout the species' range (Hobday and Tegner, 2000b). Hobday and Tegner (2000b) combined data from these surveys and calculated another estimate of current population abundance. This estimate should be more representative of the population because they used spatially-distinct white abalone densities from the different areas surveyed. Based on the estimated potential habitat (966 ha or 2,386 acres) and the area-specific white abalone densities, Hobday and Tegner (2000b) calculated a revised current population abundance of 2,540 individuals throughout the range of the species.

All of these historical and current white abalone abundance estimates are likely to be biased for several reasons. First, the total amount of white abalone habitat may be more or less than the 3–percent assumed area within the depth contours between 25 and 65 m (82–213 ft), and the amount may vary among areas (Hobday and Tegner, 2000b). Second, since the exact width of the submarine transect widths are not known, the area actually surveyed may be larger or smaller. In addition, since white abalone prefer low relief rocks covered with folise algae near sand at depths between 40–60 m, observers

collecting data during surveys may preferentially search these areas. Finally, in 1996 alone, 12,307 kg (27,132 lb) of white abalone were reported in Mexican commercial abalone landings. Because the average weight of white abalone is 1.67 lb (0.75 kg), represents approximately

32,000 white abalone (Hobday and Tegner, 2000a). If the Mexican landings data are correct, the current white abalone density estimates based on fishery-independent data may be too low.

2. Trends in Abundance

a. *Commercial Fishery Data - California.* In 1967, at a time when the total abalone landings in California began to decline, commercial white abalone harvest began (Hobday and Tegner, 2000a). Within a 9-year period between 1969 and 1977, over 95 percent of the commercial white abalone landings took place. White abalone landings peaked at 144,000 lb (86,000 individuals) in 1972, only 3 years after intense harvest began. The decline in white abalone landings was so dramatic by 1978 (less than 5,000 lb (2270 kg) landed), that the CDFG no longer required white abalone to be reported separately on commercial landings receipts. Between 1987 and 1992, only 11 white abalone were voluntarily reported in commercial landings, and, since 1992, none have been reported.

b. *Recreational Fishery Data—California.* Data on the recreational catch of abalone in California comes from commercial passenger dive boats (Hobday and Tegner, 2000a). Between 1971 and 1993, white abalone comprised 1.29 percent of the total, and 2.89 percent of the ''identified,'' recreational abalone catch in California. Most of the catch was harvested from Santa Catalina and San Clemente Islands. Recreational harvest of white abalone peaked at about 35,000 animals in 1975, then declined sharply. By 1986, white abalone were rarely reported as landed by divers using commercial dive boats. Abalone catch from recreational divers not using commercial dive boats has not been quantified.

c. Commercial Fishery Data - Mexico. Data on abalone landings in Mexico are limited because species-specific catch data are sparse. Before 1984, Mexico did not require commercial abalone fishermen to land abalone in the shell, the only identifying characteristic. Prior to about 1990, Hobday and Tegner (2000a) found no data on the number or weight of white abalone landed in Mexico. Often, available data were temporally and spatially inconsistent and contradictory.

Although white abalone are deep-living and most likely hard to find, they were harvested in Mexico prior to 1931 because the tender meat attracted a high price (Croker, 1931, p. 69). Historically, white abalone comprised only a few percent of the total Baja, California, abalone catch. However, in certain cooperatives, white abalone was sometimes a significant portion of the abalone catch—in some months representing over 50 percent of the total abalone catch (Hobday and Tegner, 2000a). For instance, between 1992 and 1994, white abalone represented about 65 percent of the catch of one Mexican fishing cooperative. Since the total abalone catch for that cooperative was 57,983 lb (26,301 kg) of meat, that represents a large amount of white abalone meat (i.e., 37,689 lb or 17,096 kg). Hobday and Tegner (2000a) suggest that this harvest may represent overharvesting of newly located reefs, because that harvest rate was not sustained in subsequent years.

Data from Zone 1 (the northernmost portion of species range in Mexico) from 1990 to 1997 indicate that white abalone represented only 0.73 percent of the total abalone catch (Hobday and Tegner, 2000a). In this same zone, no catch trends are evident for any abalone species. White abalone were not harvested south of Zone I in Baja, California, from 1993 to 1998. Although the data are limited, it appears that in those areas, catch-per-unit-effort of abalone declined from 205 to 18 kg/boat/day (452 to 40 lb) between 1958 and 1984, respectively (Guzman del Proo, 1992, as cited in Hobday and Tegner, 2000a). Since 1981, total abalone catch has remained near 800–1000 tons, with most abalone harvested from Cedros Island. From 1993 to 1998, the price of abalone in Mexico has remained constant and is an important source of income for the region (Ponce-Diaz *et al.*, 1998, cited in Hobday and Tegner, 2000a). Based on trends in landings, Mexico's white abalone populations may be depleted (Guzman del Proo, 1992), though perhaps not as severely as in the United States (Hobday and Tegner, 2000a).

d. Recreational Fishery-Dependent Data—Mexico. Although there is no recreational abalone fishery in Mexico, the gathering of intertidal abalone occurs at some level (Hobday and Tegner, 2000a).

e. Summary of Trends. Survey assessments for white abalone have been limited in number and spatially separate (Hobday and Tegner, 2000a). Because of this and because relatively few white abalone were observed, estimates of white abalone density, using fishery-independent data collected during the surveys in the 1980's and 1990's are imprecise. The current white abalone abundance calculations based on these survey data may also be biased due to assumptions about the total amount of white abalone habitat currently available (e.g., 3 percent) and the amount of area actually surveyed. Nevertheless, data collected from the white abalone surveys represent the best available scientific information on the species.

Review of the results from the series of fishery-independent abalone surveys in the early 1980s and 1990s indicates that white abalone density may have declined by several orders of magnitude in California since 1970 (Hobday and Tegner, 2000a). Over the last 30 years, white abalone abundance has declined from approximately 2.22 to 4.24 million animals (pre-exploitation) to approximately 1,613 to 2,540 animals throughout the species range. This decline represents a decrease in white abalone abundance of over 99 percent since exploitation began in the late 1960s. Review of the commercial landings data also indicates a significant decline in white abalone abundance, from a peak of 144,000 lbs (65,318 kg) in 1972 to less than 1,000 lbs (454 kg) in 1979, after only a decade of commercial exploitation.

3. Spatial and Temporal Distribution and Effective Population size

In addition to the absolute number of individuals in a population or species, their spatial and temporal distribution is critical for successful fertilization, recruitment, and survival of local populations. Reproductive failure will occur below a threshold population density because surviving individuals are so few and so scattered that they cannot find mates. This is commonly referred to as the ''Allee Effect'' (Primack, 1993). Individuals that are close enough to find mates may still not produce offspring due to other factors such as age, poor health, sterility, malnutrition, and small body size (Primack, 1993). As a result of these factors, the ''effective population size'' of breeding individuals will be substantially smaller than the actual population size.

Even with high adult densities, abalone recruitment is highly variable and unpredictable (Davis *et al.*, 1996). Based on results from modeling and experiments with sea urchins, Pennington (1985) demonstrated that successful fertilization for broadcast spawners requires that males and females be close enough for free-swimming sperm to contact eggs in sufficient densities. Juvenile abalone

recruitment severely declines, or ceases in abalone populations that are depleted below approximately 50 percent of virgin stock levels (Shepherd and Brown, 1993; Richards and Davis, 1993). Price *et al.* (1988) found that, for the Australian abalone species, *Haliotis rubra*, abundance of breeding animals determined recruitment. Thus, despite the broadcasting of millions of sperm and eggs and a planktonic larval phase, locally reduced adult abalone densities can result in lower local recruitment. More recently, Babcock and Keesing (1999) found that, for the Australian abalone species, *Haliotis laevigata*, recruitment failure occurred when the mean nearest neighbor distances were over 1–2 m (3.3–6.6 ft) or when densities fell below 0.3 animals/m^2. They also speculate that reductions in abalone densities may further reduce reproductive success by limiting the ability to synchronize reproductive behavior.

Because abalone are slow-moving bottom dwellers, their ability to aggregate during spawning to overcome even relatively small separations is extremely limited. If the current estimate of mean white abalone density (e.g., 0.00027 white abalone/m^2) is representative throughout most of the range of the species, it is far below that necessary to produce gamete concentrations high enough for effective fertilization. Based on the current estimated average distance of approximately 50 m (164 ft) between white abalone adults, the chance of successful fertilization and regular production of viable cohorts of juvenile white abalone is extremely low (Davis, 1998).

The density of white abalone observed during the 1999 submersible survey varied from 0 to 9.76 abalone per ha (Hobday and Tegner, 2000b). The highest densities were found at Tanner Bank, an offshore area where distance, average sea conditions, and navigational challenges may have reduced white abalone fishing effort. Of the 157 white abalone found in the October 1999 submersible survey, nearly 80 percent were individuals (i.e., the nearest neighbor was more than 2 m (6.6 ft) away (Hobday and Tegner, 2000b). Twenty percent of the white abalone observed were found in ''groups'' of two, and one group of four was found. Although these groups have the potential to produce offspring if at least one male and one female occurs in each group, it is still likely that the effective population size of the species is currently very small (Hobday and Tegner, 2000b).

The size and frequency of empty abalone shells observed during surveys can also indicate local population structure and whether habitat is suitable for survival. For example, about 20 percent of the empty shells near stable red abalone populations, with regular juvenile recruitment are juvenile-sized shells (Hines and Pearse, 1982, reported in Davis *et al.*, 1996). In contrast, the percentage of juvenile-sized empty shells found near a red abalone population on the verge of collapse at Santa Rosa Island dropped from 22 percent to 6 percent as recruitment and adult densities declined (Tegner *et al.*, 1989; Davis *et al.*, 1992, reported in Davis *et al.*, 1996).

Davis *et al.* (1996) found that during the 1992–1993 scuba surveys for white abalone, most of the empty shells and live individuals were probably more than 25 years old (>140 mm or 5.5 inches). All of these shells, except one, were adult size (>50 mm or 2 inches) and most were between 131 and 180 mm (5 and 7 inches). During the 1996–1997 submersible white abalone surveys, over 300 empty shells were observed. All of these shells appeared to be over 25 years old (Davis, G., pers. comm., February 2000). These results indicate that the survey sites were previously inhabited by white abalone. Davis *et* al. (1998) concludes that these older abalone represent the last major cohort recruited to the population. This cohort would have been spawned in the late 1960s or early 1970s and survived because they would have been too small to be legally harvested during the peak of the fishery in the 1970s.

Although the influence of age on white abalone fertility is unknown, if individual age is a factor for reproductive success, the effective population size of white abalone may be significantly lower than the current estimate of white abalone abundance throughout its range. Analysis of the 1999 survey video footage and photographs to determine size frequencies of the white abalone observed (live individuals and empty shells) has not yet been conducted (Hobday and Tegner, 2000b).

4. Other Natural and Human Influences. See (A), (C), and (E) in Summary of Factors Affecting White Abalone.

Summary of Factors Affecting White Abalone

Section 4(a)(1) of the ESA and the listing regulations (50 CFR part 424) set forth procedures for listing species. NMFS must determine, through the regulatory process, if a species is endangered or threatened based upon any one or a combination of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) inadequacy of existing regulatory mechanisms; or (E) other natural or human-made factors affecting its continued existence. NMFS' contract with SIO included a review of current and historical factors affecting white abalone. This review identifies overutilization for commercial purposes as the primary reason for the decline of white abalone (Hobday and Tegner, 2000a). The following is a discussion of the factors used to determine whether white abalone should be listed as a threatened or endangered species under the ESA.

A. Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Loss or modification of habitat is not likely to have been a factor in the decline of white abalone. Hobday and Tegner (2000a) conclude that natural or anthropogenic white abalone habitat losses are unknown. Due to the isolation of the offshore islands off southern California and northern Baja, California, Mexico, and the depth range of the species, anthropogenic impacts to white abalone habitat should be limited near the islands. The California Department of Fish and Game (CDFG) believe, that direct threats to white abalone are limited, especially on the islands offshore of southern California, but mainland habitat may have been affected to an ''unknown extent'' for a variety of unspecified land-based human activities. On the other hand, pollution affected shallow water abalone habitat (i.e., *Macrocystis* kelp forests) along the Palos Verdes Peninsula in the 1950s, resulting in a decline in certain shallow water abalone populations (Tegner, 1989; 1993). However, the source of the pollution has been controlled and is no longer affecting habitat in that area.

Long-term or short-term changes in ocean conditions could affect both larval and adult abalone (Hobday and Tegner, 2000a). For example, periodic El Nino conditions increase surface water temperatures above optimum larval survival levels. In addition, due to the periodicity of these events, Hobday and Tegner (2000a) suggest the warming events would lead to recruitment failure. The influence of some diseases may increase during periods of warm water conditions. Warm water has also been associated with depleted nutrients in the ocean, declines in *Macrocystis*,

and the availability of drifting algae material. The direct or indirect impacts of increasing water temperatures within the depth range on white abalone are unknown. Harvesting of *Macrocystis pyrifera* has been shown to have little effect on shallow-living abalone species (Tegner, 1989) and could even benefit abalone by providing greater amounts of drift algae (Hobday and Tegner, 2000a). For these reasons, habitat loss or modification are not likely to have been factors of decline of white abalone.

B. Overutilization for Commercial, Recreational, Scientific or Educational Purposes

White abalone throughout its range have experienced declines in abundance as a result of overutilization for commercial and recreational purposes. Hobday and Tegner (2000a) suggest that white abalone in California were subject to ''serial depletion'' by the commercial fishery during the early 1970s. Due to their life history characteristics as slow-moving bottom dwellers with external fertilization, abalone are particularly susceptible to local and subsequent serial depletion. If female abalone are not within a few meters of males when they both spawn, the sperm will be too diluted by diffusion to fertilize the eggs (Davis *et al.*, 1996). As local abalone density declines, the probability of successful fertilization and subsequent recruitment, correspondingly decreases. Serial depletion occurs as fishermen shift from exploited to unexploited fishing areas due to local depletion. Total landings may remain constant in the short term. Eventually, however, if all areas are harvested at unsustainable levels, recruitment failure occurs on a regionwide basis. The CDFG believe that the most significant threat to white abalone is related to the effects of low population abundance on continued white abalone reproduction, survival and recovery.

Because white abalone catch data from California were recorded by blocks that can be aggregated into regions, data indicate that over 80 percent of the white abalone landings were taken from San Clemente Island. The offshore Tanner Bank and Cortez Bank-Bishop Rock region provided 13 percent of the total catch. Notably, between 1965 and 1975, over 25 percent (average 43 percent) of the white abalone catch at each location came from a single year (Hobday and Tegner, 2000a). If harvest was sustainable, the portion of catch harvested each year at each location should have been more equitable over many years. In contrast, at each location (e.g., island), large harvest was sustained for only a few years after previously unexploited white abalone stocks were depleted (see Table 8 in Hobday and Tegner, 2000a). After only 3 years of commercial exploitation, regionwide landings of white abalone peaked at 144,000 lb (65,318 kg) in 1972, declining to less than 10,000 lb (4,535 kg) in 1977. White abalone landings were so negligible by 1978 (<1,000 lb or 454 kg), that CDFG no longer collected landings data for the species.

Hobday and Tegner (2000a) suggest that the increasing value of abalone may have contributed to increased fishing pressure. For example, the price of white abalone increased from about $2.50 per pound in 1981 to about $7 per pound in 1993. As the catch of all abalone declined, the total and per-unit value of the harvest continued to increase. White abalone was usually the most valuable species and by 1988, white abalone was worth twice the value of other abalone species (Davis *et al.*, 1996).

C. Disease or Predation

First detected in 1985, withering syndrome disease has significantly affected west coast abalone species, especially the black abalone. Withering syndrome also occurs in pink, red, and green abalone (Alstatt *et al.*, 1996, cited in Hobday and Tegner, 2000a). Withering syndrome has recently been identified as a ricksettia bacterium that affects the digestive glands of abalone. Surveys of black abalone suffering from withering syndrome found large numbers of empty black abalone shells. Hobday and Tegner (2000a) suggest, that if white abalone were significantly affected by withering syndrome, large numbers of empty white abalone shells should have been detected during the abalone surveys of the 1980s.

In 1990, 20 freshly dead white abalone, which could have been killed by withering syndrome, with undamaged shells were collected from Santa Catalina (Tegner *et al.*, 1996). In 1993, two live white abalone were collected from Santa Catalina Island and diagnosed with withering syndrome. A white abalone in captivity recently died and showed symptoms of withering syndrome. Although white abalone appear to be susceptible to withering syndrome, it is not likely to have been a major factor in the decline of white abalone.

Several abalone predators have been documented, including sea stars, fish, crabs, octopuses, and sea otters (Hobday and Tegner, 2000a). Although increases in abundance of these predators could be related to declines in white abalone abundance, no information is available on the density of the invertebrate predators in white abalone habitat. Due to the depth range and latitudinal distribution of white abalone, predation by sea otters is not likely to have been a factor in the decline of white abalone abundance. The CDFG believes that factors such as disease or predation may have contributed to the decline of white abalone but are not currently a major factor affecting the species' continued existence.

D. The Inadequacy of Existing Regulatory Mechanisms

Because white abalone throughout their range have experienced declines in abundance as a result of overutilization for commercial purposes, fishing regulations for white abalone during the major period of its decline in the 1970s were inadequate to regulate harvest of white abalone at sustainable levels.

The establishment of minimum size limits has been a strategy used worldwide to manage the harvest of abalone on a sustainable basis (Hobday and Tegner, 2000a). Managers expected this restriction would allow individual abalone a chance to reproduce and contribute to the population before possible removal from the population by harvest. In California, minimum size limits for abalone were greater than the size of sexual maturity and could have allowed for several years of reproduction before the animals reached legal harvest size. However, successful reproduction does not necessarily occur each year. If reproductive failure occurs for several years, abalone could reach legal size and be removed by the fishery before they have successfully reproduced and contributed offspring to the population. California also prohibited abalone fishing during the spawning season. Other regulations, such as bag limits for recreational fishermen, and limited entry, were also instituted by California as abalone management measures.

In 1970, California established a permit fee of $100 for both divers and crew members (Burge *et al.*, 1975; cited in Hobday and Tegner, 2000a). The diver fee increased to $200 in 1975 and finally reached $330 in 1991. Relative to permit fees charged by other countries to harvest abalone which approach $1 million per permit (e.g., Tasmania, South Australia), these relatively low fees did not promote sustainable abalone fishing in California.

California's abalone management did not prevent serial depletion of white abalone or promote sustainable harvest practices in the 1970s. In 1996, the California Fish and Game Commission closed the California white abalone fishery to protect the surviving adults (Davis *et al.*, 1998). At this time, NMFS does not have documentation that

Mexico has closed its commercial white abalone fishery or limited white abalone fishing.

Intentional capture of sub-legal abalone before they contributed substantially to the population could have reduced the reproductive potential of white abalone (Hobday and Tegner, 2000a). However, since the State of California has required all commercially caught abalone to be landed in the shell, poaching is not likely to have been a major factor for the decline of white abalone. In Mexico, during a survey in 1973, a substantial portion of the commercial white abalone catch was found to be undersized. The impact of illegal white abalone harvesting as a factor of the species' decline is difficult to evaluate in Mexico, but was probably not a major factor in California. Because abalone has no blood clotting ability, cut animals bleed to death (Cox, 1962, cited in Hobday and Tegner, 2000a). Burge *et al.* (1975) found that accidental cutting of sub-legal sized abalone is a significant cause of mortality and could have further reduced white abalone abundance (Hobday and Tegner, 2000a). For example, mortality due to cutting during collection of sub-legal red abalone was estimated at 60 percent from small cuts in the lab, and almost 100 percent in the field. Even undersized abalone that are handled and replaced without being cut suffer a 2 to 10–percent mortality in the field. Under-sized abalone may also be subject to predation before they have a chance to reattach to the substrate.

E. Other Natural or Manmade Factors Affecting Their Continued Existence

Competition from sea urchins and other abalone species for food and space could have been a factor in the decline of white abalone. For instance, increasing trends in abundance of sea urchins (*Strongylocentrotus purpuratus* and *S. franciscanus*) could have limited the amount of algae available for juvenile or adult white abalone consumption (Hobday and Tegner, 2000a). Although these potential ecological interactions have not been studied in the field, the densities of these potential competitors are also currently low and are no longer likely to limit white abalone abundance (Hobday and Tegner, 2000a).

Hybridization of white abalone with other more abundant California abalone species could potentially lower white abalone population size (Hobday and Tegner, 2000a). Natural hybridization between other California abalone species and white abalone has been observed. Owen *et al.* (1971) found that disturbance, high sea urchin frequency, and low abundance of one parent species increased the frequency of abalone hybrids. However, because large numbers of white abalone hybrids have not been found in the field, Hobday and Tegner (2000a) conclude that hybridization of white abalone with other abalone species is unlikely to have led to a decline of the species.

Efforts Being Made to Protect White Abalone

Section 4(b)(1)(A) of the ESA requires the Secretary of Commerce to make listing determinations solely on the basis of the best scientific and commercial data available and after taking into account efforts being made by any state or foreign nation to protect a species, by predator control, protection of habitat and food supply, or by other conservation practices. In making this listing determination, therefore, NMFS must consider white abalone status and the factors that have lead to its decline, as well as state or foreign conservation efforts that may ameliorate the risks faced by the white abalone.

In judging the efficacy of state or foreign conservation efforts, NMFS considers the following: (1) The substantive, protective, and conservation elements of such efforts; (2) the degree of certainty that such efforts will be reliably implemented; and (3) the presence of monitoring provisions that determine effectiveness and that permit adaptive management (NMFS, 1996b). In some cases, conservation efforts may be relatively new and may not have had time to demonstrate their biological benefit. In such cases, provisions for adequate monitoring and funding of conservation efforts are essential to ensure intended conservation benefits are realized.

State of California Conservation Measures for White Abalone

The CDFG has collected fishery-independent data on white abalone for many years and has conducted and participated in the scuba and submersible surveys conducted in 1980/1981, 1992/1993, 1996/1997, and 1999. The data and information gathered during these studies have contributed to a better understanding of the decline of white abalone. Because the State required that abalone fishermen submit landings data, the precipitous decline of white abalone in the 1970s has been documented. As mentioned previously, the State closed white abalone fishing in 1996, thereby removing a significant factor for decline. The closure of all abalone fisheries in southern California in 1997 has also reduced the likelihood of accidental harvest or poaching of white abalone in California. Despite these State conservation measures, however, the species may not survive without human intervention because most of the remaining individuals are too far apart to successfully reproduce. To date, the State of California has not listed white abalone under the State's Endangered Species Act.

Mexican Conservation Measures for White Abalone

At this time, NMFS does not know whether Mexico has closed its white abalone fishery or instituted other conservation measures to protect the species. NMFS contracted out the status review to SIO to gather data on white abalone landings and status of white abalone in Mexico, but conservation measures were not part of this contract. The U.S. Government has not contacted Mexico yet with regard to conservation measures. Under 50 CFR 424.16, insofar as practical and in cooperation with the Secretary of State, NMFS must give notice of any proposed regulation to list a species to each foreign nation in which the species is believed to occur and invite the comment of such nation. After NMFS solicits and receives comments from Mexico, it should have a better understanding of the conservation measures Mexico has implemented to protect white abalone.

Private-Public Partnerships

Due to concern over the depleted status of white abalone, a consortium of scientists, fishermen, conservation organizations, universities, Federal and state agencies, and mariculturists in private enterprise have joined together to develop and execute a plan to restore white abalone populations (Davis *et al.*, 1998). The White Abalone Restoration Consortium (Consortium) has developed the following four-step restoration plan: (1) Locate surviving white abalone by surveying historical habitat; (2) collect brood stock; (3) breed and rear a new generation of brood stock; and (4) re-establish refugia of self-sustaining brood stocks in the wild. The Consortium has also initiated an outreach program to raise public awareness of the status of white abalone and restoration efforts. Particularly challenging is the ability to increase public awareness of a relatively small and unknown marine invertebrate. Because nearly 25 years of artificially producing and outplanting juvenile and younger red abalone in California have failed to demonstrate effective population restoration, the Consortium is advocating that captive-born white abalone be reared until 4 years of age (>100 mm or 4 inches). Federal, state, and private grants and

funds have recently supported white abalone submersible surveys and the establishment of an aquaculture facility specifically designed to breed white abalone in captivity and rear offspring to adulthood for outplanting to the wild.

While NMFS recognizes that many of the existing conservation measures are likely to protect the remaining white abalone survivors, in the aggregate, they do not yet provide for white abalone conservation at a scale that is adequate to protect and recover the species. Due to the extremely low population abundance of white abalone throughout its range, NMFS believes that the existing protective measures alone will not be sufficient to reduce the risk of white abalone extinction in the near future.

Proposed Determination

The ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(6) and (20)). Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any state or foreign nation to protect and conserve the species.

Review of white abalone landings data and analysis of fishery-independent data indicate that over the last 30 years, white abalone abundance has declined by over 99 percent and several orders of magnitude. Most of the remaining survivors are old and so scattered that they will not be able to find mates to spawn successfully and regularly produce viable cohorts of juveniles. While NMFS recognizes that many of the existing conservation measures are likely to protect the remaining white abalone, in the aggregate, they do not yet provide for white abalone conservation at a scale that is adequate to protect and recover the species.

Based on results from the white abalone status review, information received in the petition to list white abalone as an endangered species, and other published and unpublished information, NMFS has determined that white abalone are in danger of extinction throughout all or a significant portion of their range. Therefore, NMFS proposes to list white abalone as an endangered species.

During the period between publication of this proposed rule and publication of a final rule, NMFS will continue to solicit information regarding existing protective efforts including those by Mexico (see Public Comments Solicited). NMFS will also work with Federal and state fisheries managers to evaluate and enhance the efficacy of the various white abalone conservation efforts.

Conservation Measures

Conservation measures that may apply to listed species include conservation measures implemented by tribes, states, foreign nations, local governments, and private organizations. Also, Federal, tribal, state, and foreign nations' recovery actions, Federal consultation requirements, and prohibitions on taking constitute conservation measures. In addition, recognition through Federal government or state listing promotes public awareness and conservation actions by Federal, state, tribal governments, foreign nations, private organizations, and individuals.

Based on information presented in the proposed rule, general protective and conservation measures that could be implemented to help conserve white abalone are listed as follows. This list does not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA:

1. Continue the State prohibition on commercial and recreational white abalone fishing in California.
2. Locate white abalone in California and Mexico by surveying historic habitat.
3. Collect white abalone brood stock, spawn the brood stock, rear the offspring to early adulthood, and outplant the next generation in the wild.
4. Collect and aggregate adult white abalone in the wild to facilitate successful reproduction in the field.
5. Establish protected zones to serve as refugia for captive-bred offspring and aggregated adult white abalone.
6. Promote protection and conservation of white abalone in Mexico.

Prohibitions and Protective Measures

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations and agencies subject to U.S. jurisdiction. Section 9 prohibitions apply automatically to endangered species.

Sections 7(a)(2) and (4) of the ESA require Federal agencies to consult with NMFS to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or a species proposed for listing, or to adversely modify critical habitat or proposed critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS.

Examples of Federal actions that may affect white abalone include coastal development, oil and gas development, outfall construction and operation, and power plant permitting.

Sections 10(a)(1)(A) and (B) of the ESA provide NMFS with authority to grant exceptions to the ESA's Section 9 ''take'' prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) for scientific purposes or to enhance the propagation or survival of a listed species. The type of activities potentially requiring a section 10(a)(1)(A) research/enhancement permit include scientific research that targets white abalone; collection of adult white abalone for artificial propagation purposes and aggregation or relocation of white abalone to enhance the potential of natural propagation in the wild.

Section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities performing activities that may incidentally take listed species, as long as the taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. The types of activities potentially requiring a section 10(a)(1)(B) incidental take permit include scientific research, not targeting white abalone, that incidentally takes white abalone, and the operation of power plants in a manner that incidentally takes white abalone.

NMFS Policies on Endangered and Threatened Wildlife

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service (FWS), published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270) and a policy to identify, to the maximum extent possible, those activities that would or would not constitute a violation of section 9 of the ESA.

Role of Peer Review

Before adopting the status review prepared under contract by SIO, NMFS submitted the review for peer review. NMFS shares a joint policy with FWS regarding the role of peer review of proposed listing determinations. The intent of the peer review policy is to

ensure that listings are based on the best scientific and commercial data available. Prior to a final listing, NMFS will solicit the expert opinions of at least three qualified specialists, concurrent with the public comment period. Independent peer reviewers will be selected from the academic and scientific community, Federal and state agencies, and the private sector.

Identification of Those Activities That Would Constitute a Violation of Section 9 of the ESA

NMFS and the FWS published in the **Federal Register** on July 1, 1994, (59 FR 34272), a policy that NMFS shall identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range. If this rule is finalized, at that time NMFS will identify to the extent known, specific activities that will not be considered likely to result in violations of section 9, and activities that will be considered likely to result in violations. NMFS believes, based on the best available information, the following actions will not result in a violation of section 9:

1. Possession of white abalone which are acquired lawfully by permit issued by NMFS, pursuant to section 10 of the ESA, or by the terms of an incidental take statement, pursuant to section 7 of the ESA.

2. Federally funded or approved projects for which section 7 consultation has been completed, and when activities are conducted in accordance with any terms and conditions provided by NMFS in an incidental take statement accompanying a biological opinion.

Activities that NMFS believes could potentially harm white abalone, and result in a violation of section 9 take prohibition include, but are not limited to:

1. Coastal development that adversely affects white abalone (e.g., dredging, oil and gas development).

2. Destruction/alteration of white abalone habitat, such as the harvesting of algae.

3. Discharges or dumping of toxic chemicals or other pollutants (e.g., sewage, oil, gasoline) into areas supporting white abalone.

4. Interstate and foreign commerce of white abalone and import/export of white abalone without a permit.

5. Collecting or handling of white abalone in the United States. Permits to conduct these activities are available for purposes of scientific research or to enhance the propagation or survival of the species.

These lists are not exhaustive. They are intended to provide some examples of the types of activities that might or might not be considered by NMFS as constituting a take of white abalone under the ESA and its regulations. Questions regarding whether specific activities will constitute a violation of the ESA section 9 take prohibitions and general inquiries regarding prohibitions and permits should be directed to NMFS (see **ADDRESSES**).

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the maximum extent prudent and determinable, NMFS designate critical habitat concurrently with a determination that a species is endangered or threatened. While NMFS has completed its initial analysis of the biological status of white abalone, it has not performed the full analysis necessary for proposing a designation of critical habitat at this time. NMFS intends to develop a critical habitat proposal for white abalone within the next year, as soon as the analysis can be completed.

Public Comments Solicited

NMFS exercised its best professional judgement in developing this proposal to list white abalone. To ensure that the final action resulting from this proposal will be as accurate and effective as possible, NMFS is soliciting comments and suggestions from the public, other governmental agencies, the Government of Mexico, the scientific community, industry, and any other interested parties. NMFS is interested in any additional information concerning (1) biological or other relevant data concerning any threats to white abalone; (2) the range, distribution, and abundance of white abalone; (3) current or planned activities within the range of white abalone and their possible impact on white abalone; and (4) efforts being made to protect white abalone.

NMFS will review all public comments and any additional information regarding the status of white abalone and will complete a final determination within one year of publication of this proposed rule, as required under the ESA. The availability of new information may cause NMFS to reassess the status of white abalone.

Joint Commerce-Interior ESA implementing regulations state that the Secretary ''shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list ...or to designate or revise critical habitat.'' (see 50 CFR 424.16(c)(3)). If a public hearing is requested, it would provide an opportunity for the public to give comments and to permit an exchange of information and opinion among interested parties. NMFS encourages the public's involvement in such ESA matters. Written comments on the proposed rule should be submitted to NMFS (see **ADDRESSES**).

References

A complete list of all cited references is available upon request (see **ADDRESSES**).

Classification

National Environmental Policy Act

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation v. Andrus*, 675 F. 2d825 (6th Cir. 1981), NMFS has concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA). (See NOAA Administrative Order 216–6.)

Executive Order 12866, Regulatory Flexibility Act and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act (RFA) are not applicable to the listing process. In addition, this rule is exempt from review under Executive Order 12866. This rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Executive Order 13132—Federalism

In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual State and Federal interest, NMFS has conferred with the State of California in the course of assessing the status of white abalone, and considered, among other things, state and local conservation measures. California has expressed support for the conservation of white abalone. The content of this dialogue with the State of California as well as the basis for this proposed action, is described in the **SUPPLEMENTARY INFORMATION** section of this document. As the process continues, NMFS intends to continue

engaging in informal and formal contacts with California, and other affected local or regional entities, giving careful consideration to all written and oral comments received. NMFS also intends to consult with appropriate elected officials in the establishment of a final rule.

Critical Habitat

At this time, NMFS is not proposing to designate critical habitat for white abalone pursuant to ESA section 4(b)(2). Prior to proposing to designate critical habitat for white abalone, NMFS will comply with all relevant RFA requirements.

List of Subjects in 50 CFR Part 224

Endangered and threatened wildlife, Exports, Imports, Marine Mammals, Transportation.

Dated: May 1, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 224 is proposed to be amended as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

1. The authority citation of part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq*.

2. In § 224.101, paragraph (d) is added to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(d) *Marine invertebrates*. White abalone (*Haliotis sorenseni*).

[FR Doc. 00–11285 Filed 5–4–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 88
Friday, May 5, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Economic Research Service

Intent To Seek Approval to Collect Information

AGENCY: Economic Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) implementing regulations, this notice announces the Economic Research Service's (ERS) intention to request approval for a new information collection on the declining participation in the Food Stamp Program (FSP) and the role of policies and local administrative practices in the FSP or in related programs, such as Temporary Assistance to Needy Families (TANF), in affecting participation. This information will contribute to a better understanding of the reasons behind the large declines in food stamp participation since passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

DATES: Comments on this notice must be received by July 10, 2000 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Peggy J. Cook, Food Assistance and Rural Economy Branch, Food and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, 1800 M. Street, NW, Room S–2078, Washington, DC 20036–5831. For further information contact: Peggy J. Cook, 202–694–5419.

SUPPLEMENTARY INFORMATION:

Title: Paperwork Reduction Act Submission (OMB–83–I).

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: New collection of information.

Abstract: ERS has the responsibility to provide social and economic intelligence on consumer, food marketing, and rural issues, including: domestic food assistance programs; low-income assistance programs; food security status of the poor; food consumption determinants and trends; consumer demand for food quality, safety, and nutrition; food market competition and coordination; and food safety regulations.

The Food and Nutrition Service (FNS) administers the nutrition assistance programs of the U.S. Department of Agriculture (USDA). The Food Stamp Program (FSP) is the cornerstone of the Nation's nutrition safety net for low-income Americans. The program's intent is to eliminate hunger and enable eligible low-income persons to obtain a more nutritionally adequate diet by providing food stamp coupons (or other forms of payment) redeemable at many retail food stores. Benefits provided under the FSP come solely from Federal dollars, but the program is administered jointly by Federal, State, and local governments who also share the costs of program administration. The program is in operation in the 50 States, the District of Columbia, Guam and the U.S. Virgin Islands. In 1998, the program distributed more than $16.6 billion to 19.8 million people living in 7.8 million households.

USDA is concerned about the declines in FSP participation that have occurred since 1994 and whether or not the FSP is reaching all those in need. National food stamp rolls declined by one-third between 1994, when 28.8 million persons received food stamps in an average month, and 1999, when an average of 18.8 persons received benefits each month. According to some analysts, factors like the strong economy, changes in the size and composition of the potential eligibility pool, and Federal changes in the food stamp eligibility rules legislated under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) do not fully explain the decline. Little is known about the possible influences of other program factors on FSP participation, in particular, the effects of post-PRWORA changes on how States and local offices administer and operate the FSP in respect to other programs, especially the TANF program. Information also is lacking about the extent to which the levels of awareness and motivations of potentially eligible households affect their decisions to seek and to continue food stamp participation. The data collected in this study are designed to provide information about the role of policies and local administrative practices in the FSP and in related programs in affecting participation.

A sample of FSP caseworker supervisors and caseworkers will be asked questions to identify specific policies and practices in local FSP administration that may affect eligible households' access to and participation in the FSP. Questions will concern policies and practices affecting: contacting the FSP office; filing the FSP application and completing the process; ongoing requirements for FSP recipients; and FSP/TANF benefit reductions or TANF termination. Respondents also will be asked questions concerning their perspectives on post-PRWORA changes in policies and practices. A sample of FSP applicants will be asked questions concerning: trigger events that led to their food stamp application; their understanding of the application process and requirements; expected benefits and costs; and household characteristics and circumstances. A sample of presumptively FSP-eligible households who are not participating in the Program will be asked questions concerning: reasons for not applying to the FSP, perceived eligibility; previous experience with FSP, TANF, and Medicaid programs; perceived costs of participation; and household characteristics and circumstances.

The sampling design for the study is a two-stage national probability sample of new and recertifying food stamps applicants. The first stage of the sampling is the selection of local sites. The study will be conducted in a nationally representative sample of 120 local food stamp offices. The sample will include at least one office in nearly all of the forty-eight contiguous states and the District of Columbia, yet still use a probabilistic sampling approach that yields good statistical precision in overall estimates. The second stage of the sampling involves selecting, within each of the 120 sampled local offices, a representative sample of new and recertifying food stamp applicants. Within each of the sampled local

offices, food stamp caseworker supervisors and food stamp caseworkers will be sampled. In addition, a random-digit-dial telephone survey also will be conducted with a sample of presumptively FSP-eligible households, living in the areas served by the 120 sampled local food stamp offices, who are not participating in the FSP.

ERS, working with Abt Associates and Health Systems Research, will conduct the telephone surveys of FSP supervisors and caseworkers, FSP applicant households, and FSP-eligible nonparticipating households. FSP applicant households without telephones will be interviewed in-person. The household telephone interviews will be conducted using Computer-Assisted-Telephone Interviewing (CATI). Responses are voluntary and confidential. To minimize the burden on applicant households, a substantial portion of needed data will be collected by abstraction from local offices' case file records. Survey data will be used with other data for statistical purposes and reported only in aggregate or statistical form.

No existing data sources, including FNS administrative data, can provide all the information needed to complete the Study of Program Access and Declining Food Stamp Participation. These data and the research they will support are vital to the USDA's ability to understand reasons for recent declines in FSP participation.

Estimate of Burden: Public burden for this data collection is estimated, on average, as 60 minutes for caseworker supervisors and caseworkers; 30 minutes for food stamp applicants; 5 minutes for screening households to determine presumptive FSP eligibility; and 30 minutes for FSP-eligible nonparticipants. The estimates include time for listening to instructions, gathering data needed, and responding to questionnaire items.

Respondents: FSP caseworker supervisors, FSP caseworkers, FSP applicants, households with residential telephone numbers, and presumptively FSP-eligible households.

Estimated Number of Respondents: 240 FSP caseworker supervisors, 480 FSP caseworkers, 1,425 FSP applicants, 33,333 households with residential telephone numbers, and 1800 presumptively FSP-eligible households.

Estimated Total Annual Burden on Respondents: 5111 hours.

Copies of the information to be collected can be obtained from Peggy J. Cook, Food Assistance and Rural Economy Branch, Food and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, 1800 M. Street, NW, Room S–2078, Washington, DC 20036–5831, 202–694–5419.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques. Comments should be sent to the address stated in the preamble. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Signed at Washington, D.C., this 28th day of April, 2000.

James Blaylock,

Associate Director, Food and Rural Economics Division.

[FR Doc. 00–11203 Filed 5–4–00; 8:45 am]

BILLING CODE 3410–18–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 5, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Dispatcher Services, Federal Building, 222 West 7th Avenue, Anchorage, Alaska
NPA: Portland Habilitation Center, Inc., Portland, Oregon
Grounds Maintenance, DC Air National Guard, 201st Mission Support Squadron, Andrews Air Force Base, Maryland
NPA: Melwood Horticultural Training Center, Upper Marlboro, Maryland
Janitorial/Custodial, Butler U.S. Army Reserve Center/OMS, 360 Evan City Road, Butler, Pennsylvania
NPA: The Easter Seal Society of Western Pennsylvania, Pittsburgh, Pennsylvania
Operation of the Alternate Format Center, Department of Education, Mary Switzer Building, 330 C Street, SW, Washington, DC
NPA: Columbia Lighthouse for the Blind, Washington, DC
Recycling Service, Scott Air Force Base, Illinois
NPA: Challenge Unlimited, Inc., Alton, Illinois

Rita L. Wells,

Deputy Director (Policy and Program Coordination).

[FR Doc. 00–11287 Filed 5–4–00; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 5, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On November 29, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 66611) of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List:

Base Supply Center, Operation of Individual Equipment Element Store and HAZMART, Charleston Air Force Base, South Carolina

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Rita L. Wells,

Deputy Director (Policy and Program Coordination).

[FR Doc. 00–11288 Filed 5–4–00; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on June 1, 2000, 10:30 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Open Session

1. Opening remarks and introductions.
2. Presentation of papers and comments by the public.
3. Update on Chemical Weapons Convention declarations and inspections.

Closed Session

4. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

A limited number of seats will be available during the open session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to the address below:

Ms. Lee Ann Carpenter, OSIES/EA/BXA MS: 3876, U.S. Department of Commerce, 14 St. & Pennsylvania Ave., NW, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 7, 2000, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information or copies of the minutes call Ms. Lee Ann Carpenter at (202) 482–2583.

Dated: May 1, 2000.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 00–11302 Filed 5–4–00; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818, C–475–819]

Certain Pasta From Italy: Notice of Initiation of Anti-Circumvention Inquiry on the Antidumping and Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is self-initiating an anti-circumvention inquiry to determine whether an Italian producer of pasta is circumventing the antidumping and countervailing duty orders on certain pasta from Italy, issued July 24, 1996.

EFFECTIVE DATE: May 5, 2000.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Jarrod Goldfeder, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4126 or (202) 482–2305, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments

made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

Scope of Antidumping and Countervailing Duty Orders

Imports covered by these orders are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione (IMC), by Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia or by Consorzio per il Controllo dei Prodotti Biologici.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States (HTSUS).* Although the *HTSUS* subheading is provided for convenience and customs purposes, the written description of the merchandise subject to these orders is dispositive.

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the antidumping and countervailing duty orders. *See* Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997, on file in the Central Records Unit (CRU) of the main Commerce Building, Room B–099.

(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the antidumping and countervailing duty orders. *See* letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., dated July 30, 1998, on file in the CRU.

(3) On October 23, 1997, the petitioners filed a request that the Department initiate an anti-circumvention investigation against Barilla, an Italian producer and exporter of pasta. On October 5, 1998, the Department issued a final determination that, pursuant to section 781(a) of the Act, Barilla was circumventing the antidumping duty order by exporting bulk pasta from Italy which it subsequently repackaged in the United States into packages of five pounds or less for sale in the United States. *See Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672 (October 13, 1998) (*Barilla Circumvention Inquiry*).

(4) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the antidumping and countervailing duty orders. On May 24, 1999 we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing up to (and including) five pounds four ounces, and so labeled, is within the scope of the antidumping and countervailing duty orders. *See* Memorandum from John Brinkmann to Richard Moreland, dated May 24, 1999, on file in the CRU.

Background

On August 30, 1999, we issued an antidumping questionnaire to Pastificio Fratelli Pagani S.p.A. (Pagani) for the third administrative review of the antidumping duty order, covering the period July 1, 1998, through June 30, 1999. In its October 1, 1999 questionnaire response, Pagani stated that it ''exported sacks of nonsubject bulk pasta for repackaging after importation.'' Based on a supplemental questionnaire issued to Pagani on January 24, 2000, Pagani provided more detail regarding its repackaging operation.

Scope of the Anti-Circumvention Inquiry

The product subject to this anti-circumvention inquiry is certain pasta produced in Italy, by Pagani, and exported to the United States in packages of greater than five pounds (2.27 kilograms) that meets all the requirements for the merchandise subject to the antidumping and countervailing duty orders, with the exception of packaging size, and which is repackaged into packages of five pounds (2.27 kilograms) or less after entry into the United States.

Initiation of Anti-Circumvention Proceeding

In accordance with section 781(a) of the Act, the Department may include merchandise completed or assembled in the United States within the scope of an existing order when the following four conditions are met: (A) The merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of an antidumping or countervailing duty order; (B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order applies; (C) the process of assembly or completion in the United States is minor or insignificant; and (D) the value of the parts or components produced in the foreign country to which the antidumping and countervailing duty order apply is a significant portion of the total value of the merchandise sold in the United States.

In determining whether to include parts or components in an order, the Act states at section 781(a)(3) that the Department must take into account: (1) The pattern of trade, including sourcing patterns; (2) whether the manufacturer or exporter of the parts or components is affiliated with the person who assembles or completes the merchandise sold in the United States; and (3) whether imports into the United States of the parts or components produced in such foreign country have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

Based upon our review of the information submitted in the context of the third administrative review with respect to the preceding criteria, we find that the all of the elements that warrant an anti-circumvention inquiry are present (*see* Memorandum from Holly A. Kuga to Troy H. Cribb, ''Initiation of Anti-circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta from Italy,'' dated April 21, 2000, on file in the CRU. This information indicates that there is reason to believe that Pagani's repackaging operation in the United States has allowed it to evade

antidumping and countervailing duties on its sales of subject pasta in the United States. Therefore, we are self-initiating an anti-circumvention inquiry to determine whether Pagani's importation of pasta in bulk and subsequent repackaging in the United States constitutes circumvention, with respect to the antidumping and countervailing duty orders on pasta from Italy pursuant to section 781(a) of the Act and 19 CFR 351.225(b).

We intend to notify the International Trade Commission in the event of an affirmative preliminary determination of circumvention, in accordance with 19 CFR 351.225(f)(7).

The Department will not order the suspension of liquidation at this time. However, in accordance with 19 CFR 351.225(l)(2), the Department will instruct the U.S. Customs Service to suspend liquidation in the event of an affirmative preliminary determination of circumvention. Although interested parties may comment prior to the preliminary determination, the Department will establish a formal schedule for submission of final comments after the preliminary determination.

This notice is issued and published pursuant to section 781 of the Act (19 U.S.C. 1677j) and 19 CFR 351.225.

Dated: April 27, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–11306 Filed 5–4–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.000411102–0102–01; I.D. 030800B]

RIN 0648–ZA85

Financial Assistance for Community-Based Habitat Restoration Projects

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of funds.

SUMMARY: NMFS announces that funding will be available to implement grass-roots restoration projects to restore fish habitats under the NOAA Community-Based Restoration Program (CRP or Program). NMFS issues this document describing the conditions under which applications (project proposals) will be accepted under the CRP and the manner in which applications will be selected for funding.

The CRP is a national effort to encourage partnerships with Federal agencies, states, local governments, non-governmental and non-profit organizations, businesses, industry, schools, colleges and universities to carry out locally important habitat restorations to benefit living marine resources. The CRP assists eligible applicants in carrying out on-the-ground habitat restoration projects that address important fishery habitat issues within communities and involve local citizens in marine, estuarine, and anadromous fish habitat restoration activities.

DATES: Applications for funding under the CRP will be accepted upon publication of this notice in the **Federal Register** and must be received by 5 p.m. (eastern daylight savings time) on June 9, 2000. Applications received after that time will not be considered for funding. No facsimile applications will be accepted.

ADDRESSES: Send applications to Director, NOAA Restoration Center, National Marine Fisheries Service, 1315 East West Highway (F/HC3), Silver Spring, MD 20910–3282; ATTN: CRP Applications.

See **SUPPLEMENTARY INFORMATION** section under Electronic Access for additional information on the Program and for application form information.

FOR FURTHER INFORMATION CONTACT: Christopher D. Doley, (301) 713–0174, or by e-mail at Chris.Doley@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Authority

The Secretary of Commerce is authorized under the Fish and Wildlife Coordination Act of 1956, 16 U.S.C. 661–666, to provide grants or cooperative agreements for fisheries habitat restoration.

II. Catalogue of Federal Domestic Assistance

This Program is described in the ''Catalogue of Federal Domestic Assistance,'' under program number 11.463, Habitat Conservation.

III. Program Description

The CRP, a competitive Federal assistance program, promotes strong partnerships to fund grass-roots, community-based activities that restore habitat and develop stewardship and a conservation ethic for NOAA's trust resources. NOAA's trust resources are living marine resources that include: commercial and recreational fishery resources; anadromous species (fish, such as salmon and striped bass, that spawn in freshwater and then migrate to the sea); endangered and threatened marine species and their habitats; marine mammals; marshes, mangroves, sea grass beds, coral reefs, and other coastal habitats; and all resources associated with National Marine Sanctuaries and National Estuarine Research Reserves.

The Program's objective is to bring together citizen groups, public and nonprofit organizations, industry, corporations and businesses, youth conservation corps, students, landowners, and local government, state, and Federal agencies to implement habitat restoration projects to benefit NOAA trust resources. Partnerships are developed at the national and local level to contribute funding, land, technical assistance, workforce support or other in-kind services to promote citizen participation in the improvement of locally important living marine resources.

The Program recognizes the significant role that communities play in habitat restoration and protection and acknowledges that habitat restoration is often best supported and implemented at a community level. Projects are successful because they have significant community support and depend upon citizens' hands-on involvement. The role of NOAA in the Program is to strengthen the development and implementation of sound restoration projects.

For more information on the Program, see Electronic Access.

IV. Funding Availability

This solicitation announces that funding of approximately $500,000 will be available in FY 2000. There is no guarantee that sufficient funds will be available to make awards for all approved projects. Publication of this notice does not obligate NOAA to award any specific project or obligate all or any parts of the available funds.

V. Matching Requirements

The focus of the Program is to provide seed money to leverage funds and other contributions from a broad public and private sector to implement locally important habitat restoration to benefit living marine resources. To this end, applicants are expected to demonstrate a minimum 1:1 non-Federal match for CRP funds requested to complete the proposed project. In unusual circumstances, the NOAA Restoration Center may waive the expectation of 1:1 matching funds before funding decisions are made if the project meets the following three requirements: (1)

The project is judged to be an outstanding match with NOAA and NMFS Restoration Center objectives (see **SUPPLEMENTARY INFORMATION** section under Eligible Restoration Activities); (2) the need to carry out the project in a timely fashion to benefit NOAA trust resources is critical; and (3) the project sponsor has attempted to obtain matching funds but was unable to come up with the full 1:1 minimum match expected, and can provide satisfactory supporting documentation. NOAA strongly encourages applicants to leverage as much investment as possible. The degree to which cost-sharing exceeds the minimum level may be taken into account in the final selection of projects to be funded (see Evaluation Criteria section).

The match can come from a variety of public and private sources and can include in-kind goods and services. Federal funds may not be considered matching funds. Applicants are permitted to combine contributions from additional project partners in order to meet the 1:1 expected match for the project. Applicants whose proposals are selected for funding will be bound by the percentage of cost sharing reflected in the award document signed by the Grants Officer.

VI. Type of Funding Instrument

The Restoration Center envisions funding projects in this solicitation through cooperative agreements and grants. In most cases, the cooperative agreement is likely to be the preferred and most appropriate funding instrument. A cooperative agreement is a legal instrument reflecting a relationship between NOAA and a recipient whenever (1) the principal purpose of the relationship is to provide financial assistance to the recipient and (2) substantial involvement in the project by NOAA is anticipated during performance of the contemplated activity. NOAA is substantially involved in developing locally driven habitat restoration projects, conducting cooperative activities with recipients, and evaluating the performance of projects for their effectiveness in meeting stated restoration goals for improving fisheries habitat. A grant is similar to a cooperative agreement, except that, in the case of grants, substantial involvement by NOAA is not anticipated during the performance of the contemplated activity.

VII. Eligible Applicants

Any state, local or tribal government, regional governmental body, public or private agency or organization may sponsor a project for funding consideration. Federal agencies are not eligible to apply for funding; however, they are encouraged to work in partnership with state agencies, municipalities, and community groups. Successful applicants will be those whose projects demonstrate that significant, direct benefits are expected to living marine resources as a result of activities by supportive, involved communities. The Program operates under statutory authority that precludes individuals from applying.

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission, and goals are to achieve full participation by Minority Serving Institutions (MSI) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

VIII. Award Period

Generally, the Program will make awards only to those projects where requested funding will be used to complete proposed restoration activities, with the exception of post-construction monitoring, within a period of 18 months from the time awards are distributed. If an application is selected for funding, NMFS has no obligation to provide any additional prospective funding in connection with that award in subsequent years. Any subsequent proposal to continue work on an existing project must be submitted to the competitive process for consideration and will not receive preferential treatment. Renewal of an award to increase funding or to extend the period of performance is at the total discretion of the Restoration Center Director.

IX. Electronic Access

Information on the Program, including partnerships and projects that have been funded to date, can be found on the world wide web at http://www.nmfs.gov/habitat/restoration. Application forms are available over the world wide web at http://www.rdc.noaa.gov/grants/index.html. Application forms can also be obtained from the NOAA Restoration Center (see **ADDRESSES**).

X. Application Process

Applications for project funding under this program must be complete and in accordance with instructions in the standard NOAA Grants Application Package. Each application must include all specified sections as listed in the Application Package, including, but not limited to, the following: cover sheet (an applicant must use OMB Standard Form 424 and 424B as the cover sheet for each project); budget (SF 424A and budget justification), and narrative project description (statement of work). Budgets must include a detailed breakdown by category of cost estimates as they relate to specific aspects of the project, with appropriate justification for both the Federal and non-Federal shares.

The narrative project description should be limited to five pages in length and should give a clear presentation of the proposed work. It should identify the problems the project will address and describe short-term and long-term objectives and goals, the methods for carrying out and monitoring the project, and its relevance to enhancing habitat to benefit living marine resources. The need for assistance should be demonstrated, and participants (project partners) other than the applicant should be identified. The project narrative should also provide an overview of the organization to establish the qualifications of the applicant seeking funds and identify proposed project staff, and identify the geographic location where the project will occur. Applicants should not assume prior knowledge on the part of NOAA as to the relative merits of the project described in the application.

Applications should not be bound in any manner and should be printed on one side only. All incomplete applications will be returned to the applicant. Three copies (one signed original and two signed copies) of each application are required and must be submitted to the NOAA Restoration Center (see **ADDRESSES**). Applicants may opt to submit additional copies (seven are needed for reviewing purposes) if it doesn't cause a financial hardship.

XI. Indirect Costs

The budget may include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal government. The total dollar amount of indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal

agency prior to the proposed effective date of the award. However, the Federal share of the indirect costs may not exceed 25 percent of the proposed request for Federal support. Applicants with indirect cost rates above 25 percent may use the amount above the 25–percent level as part of the non-Federal share. A copy of the approved, currently negotiated Indirect Cost Agreement with the Federal Government must be included in the application. If the applicant does not have a current negotiated rate, and plans to seek reimbursement for indirect costs, documentation necessary to establish a rate must be submitted within 90 days of the award.

XII. Eligible Restoration Activities

NOAA is interested in funding projects that will result in on-the-ground restoration of habitat to benefit living marine resources, including anadromous fish species. Habitat restoration is defined here as activities that directly result in the reestablishment of formerly existing or re-creation of functional and productive, marine, estuarine, or coastal river biological systems. Restoration may include, but is not limited to, the improvement of coastal wetland tidal exchange or reestablishment of historic hydrology; dam or berm removal; improvement or reestablishment of fish passageway; natural or artificial reef/substrate/habitat creation; the establishment of riparian buffer zones and improvement of freshwater habitat features that support anadromous fishes; the planting of native coastal wetland and submerged aquatic vegetation; and the improvement of feeding, spawning and growth areas essential to marine or anadromous fish.

In general, proposed projects should clearly demonstrate anticipated benefits to habitats, such as salt marshes, seagrass beds, coral reefs, mangrove forests and riparian habitat near rivers, streams and creeks used or formerly used by anadromous fish. To protect the Federal investment, projects on private lands need to provide assurance that the project will be maintained for its intended purpose for the life of the project. Projects on permanently protected lands may be given priority consideration.

Projects must involve significant community support through an educational and/or volunteer component tied to the restoration activities. Implementation of on-the-ground habitat restoration projects must involve community outreach and monitoring to assess project success, and may involve limited pre-implementation activities, such as engineering and design and short-term baseline studies. Proposals emphasizing a singular component, such as only outreach, monitoring, or program coordination are discouraged, as are requests primarily for administration, salaries, overhead and travel.

Although NOAA recognizes that water quality issues may impact habitat restoration efforts, this initiative is intended to fund physical habitat restoration projects rather than direct water quality improvement measures, such as wastewater treatment plant upgrades or combined sewer outfall corrections. Similarly, the following restoration projects will not be eligible for funding: (1) Activities that constitute legally required mitigation for the adverse effects of an activity regulated or otherwise governed by state or Federal law; (2) activities that constitute restoration for natural resource damages under Federal or state law, and (3) activities that are required by a separate consent decree, court order, statute or regulation. Funds from this program may be sought to enhance restoration activities beyond the scope legally required by these activities.

XIII. Examples of Previously Funded Projects

The following examples are community-based restoration projects that have been funded with assistance from the Restoration Center. These examples are only illustrative and are not intended to limit the scope of future proposals in any way.

Submerged Aquatic Vegetation Restoration

Funding was provided to evaluate the feasibility of using volunteer divers to restore seagrass. A protocol was developed to train volunteers in water quality monitoring and seagrass transplantation techniques.

Fish Ladder Construction

An impediment to fish passage was corrected through the design and construction of a step-pool fish ladder, which now allows native steelhead trout to reach their historical spawning grounds.

Invasive Plant Removal

Funding was provided to a coalition of volunteer groups called ''Pepperbusters'' who worked to remove exotic Brazilian pepper plants and replant native shoreline vegetation.

Salt Marsh Restoration

Tidal flushing was restored to 20 acres of salt marsh by replacing an undersized culvert to increase the mean high water level in the restricted portion of the marsh.

Oyster Reef Restoration

Funding was provided to increase oyster reef habitat by reconstructing historical reefs and seeding them with hatchery-produced seed oysters grown in floating cages by students.

Kelp Forest Restoration

Funding was provided to train community dive groups in kelp reforestation activities, including the preparation, planting and maintenance of kelp sites, documentation of growth patterns and changes in marine life attracted to the newly planted kelp areas.

Wetland Plant Nursery

Funding was provided to start an innovative wetland nursery program in local high schools, where science and ecology classes build wetland nurseries on-campus to grow salt marsh grasses for local restoration efforts.

Riparian Habitat Restoration

Funding was provided to train youth corps in the use of biorestoration and stabilization techniques to restore eroding riverbanks and improve habitat for salmon smolt and other fish species.

Anadromous Fish Habitat Restoration

Highly functional salmonid and wildlife habitat was restored with the cooperation of private landowners by opening silted enclosures along a slough to provide refuge for juvenile salmonids during the winter flood flows.

XIV. Project Selection Process

Applications will be screened to determine if applicants meet the minimum Program requirements as described in this notice. Eligible restoration projects will undergo a technical review, ranking, and selection process. As appropriate during this process, the NOAA Restoration Center will solicit individual technical evaluations of each project and may consult with other NOAA offices, the NOAA Grants Management Division, the U.S. Department of Commerce, the Regional Fishery Management Councils, other Federal and state agencies, such as state coastal management agencies and state fish and wildlife agencies, and private and public sector subject experts or such other interested parties as potential partners who have knowledge of a specific project or its subject matter.

Projects will be ranked by individual reviewers according to the criteria and weights described in this solicitation.

The individual evaluation comments, and composite project ranks of reviewers will be presented to the Director of the NOAA Restoration Center. The Director, in consultation with Program staff, may take into account the following program priorities: (a) geographic location and habitat type to be restored, (b) diversity of applicants, (c) degree of duplication of proposed activities with other projects that are currently funded or approved for funding by NOAA and other Federal agencies; and (d) availability of remaining funds. As a result, awards may not necessarily be made to the highest scored proposals. In addition, the Director, in consultation with Program staff, will select the proposals to be funded, determine which components of the selected projects will be funded, and determine the amount of funds available for each proposal.

Applicants may be asked to modify objectives, work plans, or budgets prior to final approval of an award. The exact amount of funds awarded, the final scope of activities, the project duration, and specific NOAA cooperative involvement with the activities of each project will be determined in pre-award negotiations among the applicant, the NOAA Grants Office, and the NOAA Program staff. Projects should not be initiated in expectation of Federal funding until a notice of award document is received from the NOAA Grants Office.

Successful applicants generally will be selected approximately 90 days after the date of publication in the **Federal Register** of this notice. The earliest date for awards will be approximately 150 days after the date of publication in the **Federal Register** of this notice, when all NOAA/applicant negotiations of cooperative activities have been completed. Applicants should consider this selection and processing time in developing requested start dates for their applications.

XV. Evaluation Criteria

Reviewers will assign scores to proposals ranging from 0 (unacceptable) to 100 (excellent) points based on the following four evaluation criteria and respective weights:

(1) *Benefit to living marine resources* (25 percent)

NOAA is interested in funding projects where benefits to living marine resources can be realized. Therefore, NOAA will evaluate proposals based on the potential of the restoration project to restore, protect, conserve, and create habitats and ecosystems vital to self-sustaining populations of living marine resources under NOAA Fisheries stewardship. Locations where restoration projects may have high potential to benefit NOAA trust resources include areas identified as essential fish habitat (EFH) and areas within EFH identified as Habitat Areas of Particular Concern; areas identified as critical habitat for listed marine and anadromous species; areas identified as important habitat for marine mammals; areas located within National Marine Sanctuaries or National Estuarine Research Reserves; watersheds or such other areas under conservation management as special management areas under state coastal management programs; and other important commercial or recreational marine fish habitat, including degraded areas that formerly were important habitat for living marine resources.

(2) *Technical Merit and Adequacy of Implementation Plan* (25 percent)

Proposals will be evaluated on the technical feasibility of the project from both biological and engineering perspectives, and on the qualifications and past experience of the project leaders and/or partners in designing, implementing and effectively managing and overseeing projects. Communities and/or organizations developing their first locally driven restoration project may not be able to document past experience and, therefore, will be evaluated on the basis of their potential to effectively manage and oversee all project phases and on the availability of NOAA or other technical expertise to guide the project to a successful completion. Proposals will also be evaluated on their ability to (a) deliver the restoration objective stated in the proposal; (b) provide educational benefits; (c) demonstrate that the restoration activity will be sustainable and long-lasting; and (d) provide assurance that implementation of the project will meet all Federal and state environmental laws by obtaining or proceeding to obtain applicable permits and consultations.

(3) *Community Commitment and Partnership Development* (25 percent)

Proposals will be evaluated on the depth and breadth of the community's support. Projects must incorporate significant community involvement, which may include: (a) hands-on training and restoration activities undertaken by volunteer students, qualified youth conservation or service corps, or other citizens; (b) input from local entities, such as businesses, conservation organizations, Minority Serving Institutions, and others, either through in-kind goods and services (earth moving, technical expertise, easements) or cash contributions; (c) visibility within the community and demonstrated potential for public outreach; (d) cooperation with private landowners who set an example within the community for natural resource conservation; (e) support by state and local governments; (f) representation of those within the community who have an interest in or are affected by the project and seek the benefits of the restoration; (g) ability to achieve long-term stewardship for restored resources and to generate a community conservation ethic; and/or (h) demonstration by the applicant that the project is incorporated into a regional or community planning process or otherwise assure that all residents or citizens affected by the project are provided an opportunity to participate.

(4) *Cost-effectiveness and Budget Justification* (25 percent)

Projects will be evaluated on (a) their ability to demonstrate that a significant benefit will be generated for reasonable cost; (b) the extent of habitat and degree to which it will be restored; (c) NOAA's ability to act as a catalyst to implement the project, i.e. whether the proposed activity is more likely to occur or will occur more quickly or efficiently with NOAA involvement; (d) the percentage of funds that will be used for physical, on-the-ground restoration versus salaries, administration and overhead; and (e) the demonstration of partnership and collaboration as reflected in the budget detail. NOAA will expect cost-sharing to leverage funding and to encourage partnerships among government, industry, and academia, to address the needs of communities and to restore important fisheries habitat.

XVI. Funding Ranges

The NOAA Restoration Center anticipates that typical project awards will range from $25,000 to $75,000; NOAA will not accept proposals under $10,000 or proposals over $120,000 in this solicitation. The number of awards to be made in FY 2000 will depend on the number of eligible applications received, the amount of funds requested by applicants, and the rating and ranking of the proposals. The exact amount of funds awarded to a project will be determined in pre-award negotiations between the applicant and NOAA representatives. Funds awarded cannot necessarily pay for all the costs that the recipient might incur in the course of carrying out the project. Allowable costs are determined by reference to the Office of Management and Budget Circulars A–122, ''Cost Principles for Non-profit Organizations''; A–21, ''Cost Principles

for Education Institutions''; and A–87, ''Cost Principles for State, Local and Indian Tribal Governments.'' Generally, costs that are allowable include salaries, equipment, supplies, and training, as long as these are ''necessary and reasonable.'' However, in order to encourage on-the-ground restoration, if funding for salaries is requested, at least 75 percent of the total salary request must be used to support staff accomplishing the restoration work.

XVII. Other Requirements

Federal Policies and Procedures

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures application to Federal financial assistance awards.

Past Performance

Any first-time applicant for Federal grant funds under this announcement is subject to a pre-award accounting survey prior to execution of the award. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Pre-award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that they may have received, there is no obligation on the part of NOAA to cover pre-award costs.

No Obligation of Future Funding

If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Restoration Center Director.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant or to its subrecipients who have any outstanding delinquent Federal debt or fine until–

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established, and, at least, one payment is received; or

3. Other arrangements satisfactory to Commerce are made.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal whether key individuals associated with the applicant have been convicted of, or are presently facing, such criminal charges as fraud, theft, perjury, or other matters that significantly reflect on the applicant's management, honesty, or financial integrity. Potential non-profit and for-profit recipients may also be subject to reviews of Dun and Bradstreet data or other similar credit checks.

Primary Applicant Certifications

All primary applicants must submit a completed Form CD 511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations are hereby provided:

1. *Nonprocurement debarment and suspension.* Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension,'' and the related section of the certification form prescribed earlier applies;

2. *Drug-free workplace.* Grantees (as defined at 15 CFR 26.605) are subject to 15 CFR 26, subpart F, ''Government-side Requirements for Drug-Free Workplace (Grants),'' and the related section of the certification form prescribed earlier applies; also please enter the Principal Place of Performance, that is, where the work will be done.

3. *Anti-Lobbying.* Persons (as defined at 15 CFR 28.105) are subject to the lobbying provision of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, contracts for more than $100,000, and loans and loan guarantees for more than $150,000.

4. *Anti-Lobbying Disclosures.* Any applicant who has paid or will pay for lobbying using any funds must submit a Form SF-LLL, ''Disclosure Form to Report Lobbying,'' as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD 512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure Form SF-LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

False Statements

A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Intergovernmental Review

Applications under this program are subject to the provisions of E.O. 12372, ''Intergovernmental Review of Federal Programs.''

American-made Equipment and Products

Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program.

Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or by any other law for this notice concerning grants, benefits, and contracts. Furthermore, a regulatory flexibility analysis is not required for the purposes of the Regulatory Flexibility Act.

This action has been determined to be ''not significant'' for purposes of E.O. 12866.

This notice contains collections of information subject to the Paperwork Reduction Act, which have been approved by OMB under OMB control numbers 0348–0040, 0348–0043, 0348–0044, and 0348–0046.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Dated: May 1, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–11284 Filed 5–4–00; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

May 1, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 8, 2000.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for carryover, carryforward, swing, special shift and the recrediting of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 62659, published on November 17, 1999.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 1, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 9, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Turkey and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on May 8, 2000, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Fabric Group	
219, 313–O [2], 314–O [3], 315–O [4], 317–O [5], 326–O [6], 617, 625/626/627/628/629, as a group.	181,635,090 square meters of which not more than 47,480,835 square meters shall be in Category 219; not more than 56,280,079 square meters shall be in Category 313–O; not more than 33,764,149 square meters shall be in Category 314–O; not more than 45,370,578 square meters shall be in Category 315–O; not more than 47,480,835 square meters shall be in Category 317–O; not more than 5,275,647 square meters shall be in Category 326–O, and not more than 31,653,892 square meters shall be in Category 617.
Sublevel in Fabric Group	
625/626/627/628/629	21,374,292 square meters of which not more than 10,088,665 square meters shall be in Category 625; not more than 8,549,716 square meters shall be in Category 626; not more than 8,549,716 square meters shall be in Category 627; not more than 8,549,716 square meters shall be in Category 628; and not more than 8,549,716 square meters shall be in Category 629.
Limits not in a group	
300/301	11,022,486 kilograms.
338/339/638/639	7,032,913 dozen of which not more than 5,975,240 dozen shall be in Categories 338–S/339–S/638–S/639–S [7].
340/640	1,570,897 dozen of which not more than 499,226 dozen shall be in Categories 340–Y/640–Y [8].
347/348	7,090,182 dozen of which not more than 2,339,172 dozen shall be in Categories 347–T/348–T [9].
350	707,784 dozen.
351/651	1,260,126 dozen.
352/652	3,460,161 dozen.
361	2,716,520 numbers.
369–S [10]	2,408,734 kilograms.
410/624	1,135,918 square meters of which not more than 888,390 square meters shall be in Category 410.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

[2] Category 313–O: all HTS numbers except 5208.52.3035, 5208.52.4035 and 5209.51.6032.

[3] Category 314–O: all HTS numbers except 5209.51.6015.

[4] Category 315–O: all HTS numbers except 5208.52.4055.

[5] Category 317–O: all HTS numbers except 5208.59.2085.

[6] Category 326–O: all HTS numbers except 5208.59.2015, 5209.59.0015 and 5211.59.0015.

[7] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

[8] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[9] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2006, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6204.69.9010. 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[10] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–11240 Filed 5–4–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange: Proposed Amendments To Convert the U.S. Dollar Index Futures Contract to Physical Delivery From Cash Settlement.

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed amendments to the terms and conditions of commodity futures contract.

SUMMARY: The FINEX Division of the New York Cotton Exchange (NYCE or Exchange) has submitted proposed amendments to convert its U.S. Dollar Index (USDX or Index) futures contract to physical delivery from its existing cash settlement provisions. Under the proposal, the NYCE would no longer cash settle the USDX futures contract based on a survey of banks conducted by Reuters. Rather, the contract would provide for physical delivery of U.S. dollars in exchange for a basket of foreign currencies based on the fixed percentage weights of the Index.

The Acting Director of the Division of Economic Analysis (Division), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before May 22, 2000.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the proposed amendments to the NYCE U.S. Dollar Index futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Michael Penick of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581, telephone (202) 418–5279. Facsimile number: (202) 418–5527. Electronic mail: mpenick@cftc.gov.

SUPPLEMENTARY INFORMATION: The USDX is a geometric index of six foreign currencies with fixed percentage weights. The six currencies and their percentage weights are as follows: euro (57.6%); Japanese yen (13.6%); British pound (11.9%); Canadian dollar (9.1%); Swedish krona (4.2%); and Swiss franc (3.6%). The index formula is:

$$\text{USDX} = 50.14348112 * \prod_{i=1}^{6} = \left(\text{Spot Rate}_{it}\right)^{\text{currency weight i}}$$

Where Spot Rate_i = exchange rate of currency i at time t with all exchange rates expressed in European terms, *i.e.,* units of foreign currency per U.S. dollar, and II is the mathematical symbol for the product of a multiplication.

Under current rules, the USDX futures contract is cash settled at expiration based on a survey of banks for indicative bids and offers. The survey is conducted by Reuters USA during the last half hour of trading on the last trading day. The Exchange stated that ''over time, there has been a deterioration of the quality of the indications and a decline in the number of bank contributors.''

The Exchange proposes replacing the cash settlement procedure with a physical delivery procedure. Under this procedure, a long position holder in the subject contract would receive delivery of U.S. dollars and make payment in a basket of the six foreign currencies that are components of the USDX. Under the proposal, the contract size would remain $1,000 times the Index. Thus, at an Index level at delivery time of 100, the long would receive U.S. $100,000 and pay an amount of foreign currency valued at $100,000. Similarly, the short position holder would deliver U.S. $100,000 and receive payment in the basket of foreign currencies.

As part of the delivery procedure, the Exchange would determine a final settlement price. The final settlement price would be based, to the extent possible, on futures prices of NYCE currency futures contracts that expire at the same time as the subject USDX futures contract. If necessary, the rate for any currency that does not have an NYCE futures contract expiring at the same time as the USDX contract would be ''determined by the [NYCE's] Settlement Committee taking into account cash and futures prices of the underlying currency component and any other information that the Committee may deem appropriate.''

The final settlement price would be used to determine both the amount of U.S. dollars that the short delivers and the long receives and the amount of foreign currency that the long pays and the short receives. For example, suppose the final USDX settlement price is 100.00 and one euro is worth exactly $1.00. As noted, the weighting of the euro is 57.6%. In this instance, the short would deliver $100,000 ($1,000 times 100.00). The long would pay a basket of foreign currency worth $100,000. That basket would contain $57,600 (57.6% of $100,000) worth of euros and $42.400 worth of the other five currencies distributed according to their respective weights. Since the euro in this example is worth exactly $1.00, the long would pay 57,600 euros. The amount that the long would pay of each in the other five foreign currencies would be calculated similarly, based on their percentage weights and currency exchange rates.

Now, suppose the final settlement price is $110.00 and the euro is valued at 90.00 cents. In this instance, the short would deliver and the long would receive $110,000 ($1,000 times 110.00). The long would pay and the short would receive a basket of foreign currency worth $110,000. That basket would contain $63,360 (57.6% of $110.000) worth of the euros and $46,640 worth of the other five currencies distributed according to their respective weights. Since the euro in this example is worth $0.90, the long would pay 70,400 euros ($63,360 divided by 0.90), compared to the 57,600 euros that the long would pay if the USDX were 100.00 and the euro were valued at $1.00 under the preceding example.

As shown in these examples, under the proposed physical delivery procedure, neither the number of U.S.

dollars delivered nor the size of the basket of currencies is fixed.[1] Rather, both amounts vary in the same direction as the futures price (or index level) changes. Specifically, if the Index rises, the long receives more dollars, but is also obligated to pay more foreign currency units. Conversely, if the Index declines, the long receives fewer dollars, but is obligated to pay fewer foreign currency units.

The Division requests comment on the above-noted delivery provision. How does this novel delivery provision affect the hedging or price discovery functions of the futures contract? Also, under this delivery procedure, can market participant who make or take delivery realize profits or losses in the contract?

For most physical delivery futures contracts, it is not possible to benefit from manipulating the daily settlement price used in delivery invoices, since any benefit to a futures margin account would be offset by losses associated with that invoice price at delivery. In the revised USDX contract, the final settlement price would be used to determine both the invoice price and the amount of currency delivered. The Division requests comment regarding whether, given the unusual terms of the revised USDX futures contract, it is possible to benefit from manipulating the proposed final settlement price and, if so, whether the final settlement price is readily susceptible to manipulation.

The proposal was submitted to the Commission under the Commission's 45-day Fast Track procedures of Commission Regulation 1.41(b)(2). Under these procedures, absent Commission action to the contrary, the proposal would be deemed approved at the close of business on May 30, 2000. In view of the limited review period under the Fast Track procedures, the Division has determined to publish for public comment notice of the proposal for 15 days, rather than 30 days as provided for proposals submitted under the regular review procedures.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW, Washington, D.C. 20581. Copies of the proposed amendments can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the NYCE may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments, or with respect to other materials submitted by the NYCE, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on May 1, 2000.

Richard A. Shilts,

Acting Director.

[FR Doc. 00–11241 Filed 5–4–00; 8:45 am]

BILLING CODE 6351–01–M

[1] For most futures contracts, the amount of the commodity delivered is fixed (*e.g.* 5,000 bushels of corn), while only the number of dollars paid for the commodity varies as the futures price varies.

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission Washington, DC 20207.

TIME AND DATE: Friday, May 12, 2000, 10 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Mid-Year Review

The staff will brief the Commission on issues related to fiscal year 2000 mid-year review.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: May 3, 2000.

Sadye E. Dunn,

Secretary.

[FR Doc. 00–11425 Filed 5–3–00; 2:46 pm]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed New Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed application entitled: Application for Outreach to Individuals with a Disability. Copies of the information collection requests can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by July 5, 2000.

ADDRESSES: Send comments to the Corporation for National and Community Service, Attn: Ms. Nancy Talbot, Director, Planning and Program Development, 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Nancy Talbot (202) 606–5000, ext. 470.

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Background

The Application for Outreach to Individuals with a Disability provides the background, requirements, and instructions that potential applicants need to complete an application to the Corporation for funds to provide outreach and help increase the participation of individuals with a disability in national service.

Current Action

The Corporation seeks public comment on the forms, the instructions for the forms, and the instructions for the narrative portion of these application guidelines. This is a new application form.

Type of Review: New Collection.
Agency: Corporation for National and Community Service.

Title: Application for Outreach to Individuals with a Disability.

OMB Number: None.

Agency Number: None.

Affected Public: Corporation-approved state commissions on national and community service, state education agencies, national nonprofit organizations with expertise in disability issues, tribal or territorial governments, and public or private nonprofit organizations.

Total Respondents: 25.

Frequency: Once.

Average Time Per Response: Ten (10) hours.

Estimated Total Burden Hours: 250 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 2, 2000.

Gary Kowalczyk,

Coordinator, National Service Programs, Corporation for National and Community Service.

[FR Doc. 00–11236 Filed 5–4–00; 8:45 am]

BILLING CODE 6050–28–U

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Notice of Pre-Application Conference Calls for Potential Applicants for Learn and Serve America and AmeriCorps Grants To Overcome the Digital Divide

AGENCY: Corporation for National and Community Service.

ACTION: Notice of pre-application technical assistance conference calls.

SUMMARY: We have scheduled three conference calls to provide technical assistance to organizations interested in applying for grants to support efforts to overcome the digital divide through the Learn and Serve America School-based and AmeriCorps State competitive and National Direct programs.

FOR FURTHER INFORMATION CONTACT: To register for one of the conference calls contact Rosa Harrison, (202) 606–5000, ext. 433, TDD (202) 565–2799. For individuals with disabilities, we will make information available in alternative formats upon request.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on April 28, 2000 (65 FR 24920) we announced the availability of approximately $12,500,000 to award grants under the Learn and Serve America K–12 School-based and AmeriCorps State Competitive and National Direct funding streams to support efforts to help overcome the digital divide. For a copy of this notice and related materials and to access additional information about Learn and Serve America and AmeriCorps, visit our web site: http://www.nationalservice.org.

We have scheduled three conference calls regarding the application processes for these grants. The conference calls will assist participants in understanding the application processes and the requirements for grants made under the notice of funding availability.

Conference Calls

Tuesday, May 9, 4 p.m.–5 p.m. Eastern Time
Wednesday, May 10, 1 p.m.–2 p.m. Eastern Time
Thursday, May 11, 12 p.m.–1 p.m. Eastern Time

To register for one of the conference calls contact Rosa Harrison, (202) 606–5000, ext. 433, TDD (202) 565–2799.

Dated: May 2, 2000.

Gary Kowalczyk,

Coordinator, National Service Programs, Corporation for National and Community Service.

[FR Doc. 00–11286 Filed 5–4–00; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Policy).

ACTION: Notice.

In compliance with Section 35006(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Policy) announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or forms of information technology.

DATES: Consideration will be given to all comments received by July 5, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Gladys Crews, ODUSD(PS), Room BE865, 2000 Defense Pentagon, Washington, DC 20301–2000.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call (703) 697–5495.

Title and OMB Number: Foreign Visitor System; 0704–0221.

Needs and Uses: The information collection requirement is necessary to record the reporting of authorized foreign visits that have occurred at Department of Defense (DoD) Sites and associated locations, which is designed to meet the requirements set forth in DoD Directive 5230.20, ''Visits, Assignments, and Exchanges of Foreign Nationals.''

Affected Public: Individuals (Representing Foreign Governments and Businesses or other For-Profits).

Annual Burden Hours: 3250.

Number of Respondents: 13,000.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are individuals representing foreign governments or foreign businesses visiting Department of Defense facilities. DoD personnel process the information into an automated system. The information collected is used to positively identify the individual. This centralized information system is necessary to confirm that approved visits have occurred.

Dated: May 1, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 00–11195 Filed 5–4–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense (DoD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The agenda will include a partnership presentation by the U.S. Army Operations Support Command (Provisional), NAGE Local R7–68 and AFGE Local 15, and other related Partnership topics.

DATES: The meeting is to be held May 23, 2000, in room 1E801, Conference Room 7, the Pentagon, from 1 p.m. until 3 p.m. Comments should be received by May 16, 2000, in order to be considered at the May 23 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Ben James at the address shown below. Seating is limited and available on a first-come, first-serve basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Ben James, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd, Suite B–200, Arlington, VA 22209–5144, (703) 696–6301, ext. 730.

Dated: April 25, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–11194 Filed 5–4–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Meeting

AGENCY: Department of Defense Education Benefits Board of Actuaries.

ACTION: Notice of meeting.

SUMMARY: A meeting of the board has been schedule to execute the provisions of Chapter 101, Title 10, United States Code (10 U.S.C. 2006 *et. seq.*). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the G.I. Bill. Persons desiring to: (1) Attend the DoD Education Benefits Board of Actuaries meeting or, (2) make an oral presentation or submit a written statement for consideration at the meeting must notify Wendie Powell at (703) 696–7400 by July 24, 2000.

Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: August 4, 2000, 10 a.m. to 1 p.m.

ADDRESSES: The Pentagon, Room 1E801—Room 5.

FOR FURTHER INFORMATION CONTACT: Christopher Doyle, Chief Actuary, DoD Office of the Actuary, 1555 Wilson Boulevard, Suite 701, Arlington, VA 22209–2405, (703) 696–7407.

Dated: April 25, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–11191 Filed 5–4–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the President's Information Technology Advisory Committee (Formerly the Presidential Advisory Committee on High Performance Computing and Communications, Information Technology, and the Next Generation Internet)

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the President's Information Technology Advisory Committee. The meeting will be open to the public. Notice of this meeting is required under the Federal Advisory Committee Act, (Pub. L. 92–463).

DATES: May 18, 2000.

ADDRESSES: NSF Board Room (Room 1235), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Proposed Schedule and Agenda

The President's Information Technology Advisory Committee (PITAC) will meet in open session from approximately 8:30 a.m. to 12 p.m. and 1:30 p.m. to 4:30 p.m. on May 18, 2000. This meeting will include:

(1) Updates on PITAC's panels on: learning, digital libraries; open source software; government; healthcare; the digital divide; and international issues.

(2) The issues of the digital divide.

(3) Information technology strategies in Federal agencies.

This notice is being published less than 15 days prior to meeting because of administrative oversight.

FOR FURTHER INFORMATION CONTACT: The National Coordination Office for Computing, Information, and Communications provides information about this Committee on its web site at: http://www.ccic.gov; it can also be reached at (703) 306–4722. Public seating for this meeting is limited, and is available on a first-come, first served basis.

Dated: May 1, 2000.

L. N. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–11196 Filed 5–4–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of meeting

AGENCY: Department of Defense Retirement Board of Actuaries.

ACTION: Notice of meeting.

SUMMARY: A meeting of the board has been scheduled to execute the provisions of Chapter 74, Title 10, United States Code (10 U.S.C. 1464 et. seq.). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the Military Retirement System. Persons desiring to: (1) Attend the DoD Retirement Board of Actuaries meeting or, (2) make an oral presentation or submit a written statement for consideration at the

meeting, must notify Wendie Powell at (703) 696–7400 by July 24, 2000. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: August 3, 2000, 1:00 pm to 5:00 pm

ADDRESSES: The Pentagon, Room 1E801–Room 5.

FOR FURTHER INFORMATION CONTACT: Christopher Doyle, Chief Actuary, DoD Office of the Actuary, 1555 Wilson Boulevard, Suite 701, Arlington, VA 22209–2405, (703) 696–7407.

Dated: April 25, 2000.

Patricia L. Topping,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–11192 Filed 5–4–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Threat Reduction Advisory Committee

AGENCY: Department of Defense, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics).

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Threat Reduction Advisory Committee will meet in closed session on Wednesday, July 12, 2000 at the Pentagon.

The mission of the Committee is to advise the Under Secretary of Defense (Acquisition, Technology, and Logistics) on technology security, counterproliferation, chemical and biological defense, sustainment of the nuclear weapons stockpile, and other matters related to the Defense Threat Reduction Agency's mission.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. Appendix II, (1994)), it has been determined that this Committee meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly the meeting will be closed to the public.

DATES: Wednesday, July 12, 2000, (8:00 a.m. to 5:30 p.m.)

ADDRESSES: Room 3E869, The Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Eileen Giglio, Defense Threat Reduction Agency/AS, 45045 Aviation Drive, Dulles, Va 20166–7517. Phone: (703) 326–8789.

Dated: April 25, 2000.

Patricia L. Toppings

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–11193 Filed 5–4–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of Secretary of Defense

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on May 2, 2000, May 9, 2000, May 16, 2000, May 23, 2000 and May 30, 2000, at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: April 25, 2000.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–11190 Filed 5–4–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

ARMS Initiative Implementation

AGENCY: Department of the Army, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the Armament Retooling and Manufacturing Support (ARMS) Executive Advisory Committee (EAC). The EAC encourages the development of new and innovative methods to optimize the asset value of the Government-Owned, Contractor-Operated ammunition industrial base for peacetime and national emergency requirements, while promoting economical and efficient processes at minimal operating costs, retention of critical skills, community economic benefits, and a potential model for defense conversion. This meeting will be hosted by Alliant Ammunition and Powder Company, the Facility Use Contractor at Radford AAP, along with the Business Assistance Center-Defense Conversion at Radford University. The purpose of the meeting is to update the EAC and public on the status of ongoing actions, new items of interest, and suggested future direction/actions. Topics for this meeting will include—Strategic Planning for the ARMS Program; the ARMS/USDA Loan Guarantee Program; Facility Contracting and Leasing; ARMS Database and Metrics; a FAR 45 Update; the swearing in of new EAC Members; and a tour of the Radford Facility. This meeting is open to the public.

Date of Meeting: June 14–15, 2000.

Place of Meeting: Radford University International Center (RUIC), Radford, Virginia.

Time of Meeting: 8 am–5 pm on June 14 and 8 am–2 pm on June 15.

FOR FURTHER INFORMATION CONTACT: Mr. Elwood H. Weber, ARMS Task Force, HQ Army Materiel Command, 5001 Eisenhower Avenue, Alexandria Virginia 22333; Phone (703) 617–9788

SUPPLEMENTARY INFORMATION: A block of rooms has been reserved at the Best Western Radford Inn for the nights of 13–14 June 2000. The Radford Inn is located at 1501 Tyler Avenue, Radford, Virginia 24141, Local Phone (540) 639–3000. Please make your reservations by calling 800–628–1955. Be sure to mention that you are attending the ARMS PPTF. Reserve your room prior to May 30th to get the Government Rate of $53.25 a night. Also notify this office of your attendance by notifying either Susan Alten, susan.alten@hqda.army.mil 703–617–4246 (DSN 767–4246) or Elwood Weber, eweber@hqamc.army.mil, 703–617–9788 (DSN 767–9788). To insure adequate arrangements (transportation, conference facilities, *etc.*) for all attendees, we request your attendance notification with this office by May 30, 2000. Corporate casual is meeting attire.

John A. Hall,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 00–11297 Filed 5–4–00; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Wetland Restoration and/or Creation in the Barataria Basin, Louisiana, a Component of the Louisiana Coastal Area, Louisiana—Ecosystem Restoration, Barrier Island Restoration, Marsh Creation, and River Diversion, Barataria Basin Feasibility Study

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the U.S. Army Corps of Engineers (USACE), New Orleans District (NOD) will prepare a Draft Environmental Impact Statement (DEIS) to determine the feasibility of implementing wetland restoration/creation in the Barataria Basin, located in Lafourche Parish, Louisiana. The proposed action is strategically planned as an initial effort for coastal restoration under the existing authority for the Louisiana Coastal Area (LCA), Louisiana—Ecosystem Restoration Louisiana—Ecosystem Restoration, Barrier Island Restoration, Marsh Creation, and River Diversion, Barataria Basin Feasibility Study.

The LCA Feasibility Study will evaluate the coastal restoration strategies described in the December 1998 document entitled ''Coast 2050: Toward a Sustainable Coastal Louisiana''. The LCA Feasibility Study will evaluate the Coast 2050 Plan as a whole and select strategies, such as the proposed action, to be analyzed in feasibility-level detail. The Coast 2050 Plan has been developed under legislative mandate and is a result of recognition by Federal, State, and local agencies that a single plan is needed that incorporates a clear vision for the coast, builds on previous work, integrates coastal management and coastal restoration approaches, and adopts a multiple-use approach to restoration planning.

In general, the overall purpose of the Coast 2050 Plan is to sustain a coastal ecosystem that supports and protects the environment, economy, and culture of southern Louisiana, and contributes greatly to the economy and well-being of the nation. The purpose of the Coast 2050 strategies for the Barataria Basin is to restore and/or protect the natural and human environment to create a sustainable ecosystem in the Barataria Basin within the context of the Gulf of Mexico ecosystem, including coastal Louisiana. The purpose of the proposed action, wetland restoration/creation strategy R2–16 and R2–17 of the Coast 2050 Plan for the Barataria Basin, is to restore and create wetlands in the western Barataria Basin so as to protect and sustain the ecological functions, the natural distributary ridges, and the local human infrastructure of the area.

FOR FURTHER INFORMATION CONTACT: Questions regarding the DEIS may be directed to Dr. William P. Klein, Jr., CEMVN–PM–RS, P.O. Box 60267, New Orleans, Louisiana 70160–0267; telephone (504) 862–2540 or fax (504) 862–2572. Questions regarding the proposed action should be directed to the study manager, Mr. Edmond J. Russo, Jr., CEMVN–PM–CWPPRA, P.O. Box 60267, New Orleans, Louisiana 70160–0267, telephone (504) 862–1496 or fax: (504) 862–2572.

SUPPLEMENTARY INFORMATION:

1. Authority.

This study is authorized through Resolutions of the U.S. House of Representatives and Senate Committees on Public Works, 19 October 1967 and 19 April 1967. Representatives and Senate Committees on Public Works, 19 October 1967 and 19 April 1967.

2. Proposed Action

a. The proposed action is one of three separate actions to be initially considered under the LCA, Louisiana—Ecosystem Restoration Louisiana—Ecosystem Restoration, Barrier Island Restoration, Marsh Creation, and River Diversion, Barataria Basin Feasibility Study. The USACE, NOD proposes to investigate the feasibility of restoring and/or creating wetlands in the southwestern portion of the Barataria Basin, Louisiana.

The purpose of the proposed action, wetland restoration/creation strategies R2–16 and R2–17 of the Coast 2050 Plan for the Barataria Basin, is to restore and create wetlands in the southwestern portions of the Barataria Basin so as to protect and sustain the ecological functions, the natural distributary ridges, and the local human infrastructure of the area.

b. The study area is located within the Barataria Basin of southeastern Louisiana in Lafourche Parish. The study area is bounded on the north by the West Fork Bayou L'Ours, on the west by Bayou Lafourche, on the south by Louisiana State Highway 1, and on the east by the Lafourche Parish and Jefferson Parish boundary. The study area is experiencing wetland loss at the rate of approximately 11 square miles per year.

Wetland loss within the Barataria Basin is attributed to the combination of natural erosional processes of sea-level rise, subsidence, herbivory, and the human activities of levee construction, channelization, and development. Freshwater and sediment input into the Barataria Basin was virtually eliminated by the flood protection levees constructed along the Mississippi River and the closure of Bayou Lafourche at Donaldsonville. The only significant source of fresh water in the basin is rainfall. There is some freshwater input into the basin by the siphons located at Naomi and at West Pointe a la Hache (each siphon has a maximum output of about 2,000 cubic feet per second).

When Davis Pond becomes operational in April 2001, it could potentially divert up to 10,650 cubic feet per second dependent upon the salinity conditions in the basin. However, it is predicted that the sediment-laden waters will collect in the ponding area about two miles from the Davis Pond structure located at U.S. Highway 90 and Lake Catouatche. Little, if any, of this would likely directly impact the proposed action area.

c. The Coast 2050 Plan serves as the joint coastal restoration plan of the Breaux Act Task Force and the State Wetlands Authority. The Coast 2050 Plan was completed in December 1998 through a joint effort of the Louisiana Coastal Wetlands Conservation and Restoration Task Force and the Louisiana Wetlands Conservation and Restoration Authority. Coast 2050 is a planning effort inspired by the severity of the problems facing south Louisiana, as well as an increased level of confidence in our ability to understand the ecosystem and to implement effective restoration projects.

The Coast 2050 Plan combines elements of all previous efforts, along with new initiatives from private citizens, local governments, State and Federal agency personnel, and the scientific community. For the first time, as explicitly called for by the Coalition to Restore Coastal Louisiana in 1997, diverse groups have come together to develop one shared vision for the coast expressed in this overarching goal: To sustain a coastal ecosystem that supports and protects the environment, economy and culture of southern Louisiana, and that contributes greatly to the economy and well-being of the nation.

d. *Need for the Study.*—The Coast 2050 Reconnaissance Report recommended that the study proceed to

the feasibility phase, contingent upon the execution of a Feasibility Cost Sharing Agreement (FCSA) with a non-Federal Sponsor. An FCSA was executed with the Louisiana Department of Natural Resources (LADNR) on February 18, 2000. The proposed action focuses on wetland restoration/creation in the Barataria Basin ecosystem due to the very high rate of wetland loss, estimated at about 11 square miles per year, throughout the basin.

The proposed action also provides additional advantages: (1) This proposed action potentially provides a low risk and quickly implementable plan to address wetland loss in the Barataria Basin; (2) the proposed action study area is strategically placed and could potentially yield benefits to other coastal resources within the unique Barataria Basin ecosystem, geologic framework, and the human environment infrastructure associated with transportation, oil and gas extraction, utilities, etc.; (3) the proposed action could also provide additional benefits in terms of protection of important landscape structural features that function as important hydrological features within the Barataria Basin; and (4) the proposed action could be implemented independently of the remaining Coast 2050 Plan strategies for the Barataria Basin.

3. Study Alternatives

a. During the Coast 2050 public meetings conducted in 1998, two marsh creation strategies, Strategy R2–17—Dedicated Dredging near Caminada Bay and Strategy R2–16—Dedicated Dredging Along Louisiana Highway 1, were considered as viable ecosystem restoration strategies. Hence, these strategies will be developed into alternatives for the proposed action. Other alternatives that will be considered include: The No Action Alternative, filling, marsh replenishing, terracing, and the beneficial use of dredged material from maintenance dredging of navigation channels. In addition, alternatives developed during the scoping process will also be developed and considered.

b. Wetland restoration/creation design features will be evaluated to ensure compliance with current Federal and State laws and regulations. Any adverse effects of the alternative plans will be identified and appropriate mitigation measures will be included in the plans. However, because the proposed action is ecosystem restoration, it is not the intent to generate alternative plans that would require mitigation. An Environmental Impact Statement (EIS) will be prepared during the feasibility phase because of the potential for significant direct and indirect, secondary, and cumulative impacts on the human and natural environment.

4. Scoping Process

An intensive public involvement program will be initiated and maintained throughout the study to solicit input from affected Federal, State, and local agencies, Indian tribes, and interested private organizations and individuals. Scoping is a critical component of the overall public involvement program. The scoping process is designed to provide an early and open means of determining the scope of issues (problems, needs, and opportunities) to be identified and addressed in the DEIS.

5. Public Scoping Meeting

The Corps of Engineers and the LADNR invite NEPA input in writing or in person concerning the scope of the EIS, resources to be evaluated, and alternatives to be considered. Individuals, groups, agencies and other interested parties can write comments to the Corps of Engineers using Dr. Klein's mailing address shown above. In the early summer of 2000, the Corps of Engineers will hold at least one public meeting in the study area to receive oral and written comments on the proposed action. Notices will be mailed to the affected and interested public once the date of the public scoping meeting has been established. Comments received as a result of the scoping meeting will be compiled and analyzed; and a Scoping Document, summarizing the results, will be made available to all participants.

6. Interagency Coordination

The Department of Interior, U.S. Fish and Wildlife Service, will provide a Fish and Wildlife Coordination Act Report. Coordination will be maintained with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service regarding threatened and endangered species under their respective jurisdictional responsibilities. Coordination will be maintained with the Natural Resources Conservation Service regarding prime and unique farmlands. The U.S. Department of Agriculture will be consulted regarding the ''Swampbuster'' provisions of the Food Security Act. We will prepare a section 404(b)(1) evaluation. Coordination will be maintained with the Advisory Counsel on Historic Preservation and the State Historic Preservation Officer. The Louisiana Department of Natural Resources will be consulted regarding consistency with the Coastal Zone Management Act. The Louisiana Department of Wildlife and Fisheries will be contacted concerning potential impacts to Natural and Scenic Streams. Application will be made to the Louisiana Department of Environmental Quality for a Water Quality Certificate.

7. Availability of DEIS

It is anticipated that the Draft EIS will be available for public review during the spring of 2001. A 45-day review period will be allowed so that all interested agencies, groups, and individuals will have an opportunity to comment on the draft report and EIS. In addition, a public meeting will be held during the review period to receive comments and address questions concerning the draft EIS.

Dated: April 26, 2000.

Thomas F. Julich,

Colonel, U.S. Army District Engineer.

[FR Doc. 00–11296 Filed 5–4–00; 8:45 am]

BILLING CODE 3710–84–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Supplement (SEIS) to the 1992 Final Environmental Impact Statement on Modified Water Deliveries to Everglades National Park (Mod Waters Project) to Address a Change in Design of U.S. Highway 41 (Tamiami Trail) Originally Proposed Modifications

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The congressionally authorized Mod Waters project consists of structural modifications and additions to the existing C&SF Project required for improvement of water deliveries for ecosystem restoration in Everglades National Park. The authorized plan calls for only minor modification of Tamiami Trail by increasing the elevation of about 3,000 linear feet of the roadbed. The existing culvert system was thought adequate to pass the maximum desired volume of water. Additional analysis indicates that the existing culverts are not adequate to do so. Therefore additional water conveyance methods will be analyzed.

FOR FURTHER INFORMATION CONTACT: U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, FL 32232; Attn: Mr. Elmar Kurzbach, 904–232–2325.

SUPPLEMENTARY INFORMATION:

1. Alternatives that will be evaluated include: addition of 4 new bridges, relocating the road (either to the north or south) with sufficient culverts and bridges, installation of an underground piping system, and installation of a new pump and ''getaway'' channel. The bridge and underground piping system alternatives would include alternative upgrades of the existing roadbed ranging from no upgrades, to raising approximately 10 miles of roadbed up to about 2 feet in elevation, or to an elevation of 12 feet NGVD.

2. A scoping letter and public Scoping Meeting will be used to invite comments on alternatives and issues from Federal, State, and local agencies, affected Indian tribes, and other interested private organizations and individuals.

3. The Draft EIS will analyze potential impacts to local businesses and residents, Everglades National Park, endangered species, wetlands, biological resources, water quality, and recreational fishing. Impact analysis will be limited to issues associated with the construction of the improvements, only. All general Mod Waters issues were addressed in the original Environmental Impact Statement.

4. The alternative plans will be reviewed under provisions of appropriate laws and regulations, including the Endangered Species Act, Fish and Wildlife Coordination Act, and Clean Water Act.

5. The Draft SEIS is expected to be available for public review during the 4th quarter of calendar year 2000.

John A. Hall,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 00–11293 Filed 5–4–00; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Intent To Prepare a Draft Environmental Impact Statement (DEIS) in Conjunction With Proposed Flood Control and Ecosystem Restoration Measures in the Kankakee River Basin in Northeast Illinois and Northwest Indiana

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The project involves proposed construction of flood control measures and ecosystem restoration measures along the Kankakee River, Yellow River, Iroquois River, and major tributaries. Alternatives under consideration include setback levees, sediment traps, wetland restoration, bank stabilization, vegetation buffers, and selective dredging at locations in several counties in northeast Illinois and northwest Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Ryder, 312/353–6400 ext. 2020; U.S. Army Corps of Engineers, Suite 600, 111 North Canal Street; Chicago, Illinois 60606–7206.

Dated: April 21, 2000.

Peter J. Rowan,

Lieutenant Colonel, U.S. Army, District Engineer.

[FR Doc. 00–11295 Filed 5–4–00; 8:45 am]

BILLING CODE 3710–HN–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent and Notice of Preparation for a Draft Environmental Impact Report and Environmental Impact Statement (EIR/EIS) for a Proposed Flood Reduction Investigation in Yolo County, California

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The action being taken is the development of a joint draft EIS/EIR to identify and assess the significance of potential measures that would reduce flood damages to the city of Woodland, adjacent unincorporated areas, and agricultural lands of Yolo County, and improve the conveyance of the hydraulic system for the Lower Cache Creek area. The intent of the draft EIS/EIR is to describe and evaluate the potential effects of the proposed alternatives on environmental resources in the study area.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and draft EIS/EIR can be answered by Patti Johnson at (916) 557–6611 or by mail at U.S. Army Corps of Engineers, Planning Division, ATTN: CESPK–PD–R, 1325 J Street, Sacramento, CA 95814–2922.

SUPPLEMENTARY INFORMATION: 1. *Proposed Action.*—The Corps in cooperation with the non-Federal sponsors (The Reclamation Board of the State of California and the City of Woodland) is conducting a cost-shared feasibility study on alternative flood damage reduction measures to the city of Woodland, Yolo County, California, adjacent unincorporated areas, and agricultural lands. The study is authorized by section 209 of the Flood Control Act of 1962 (Public Law 87–874). A reconnaissance study of flooding problems in the westside tributaries, including Putah and Cache Creeks, and the Yolo Bypass was conducted in 1993–1994 under the authorization of the Energy and Water Development Appropriations Act of 1993. Information resulting from this reconnaissance report is providing some data for the present feasibility study.

2. *Alternatives.*—The feasibility study's draft EIS/EIR will address a combination of one or more flood control measures including setback levees along Cache Creek, stream channel improvements, a north Woodland floodway, and a no-action alternative. Mitigation measures for any significant adverse effects on environmental resources will be identified and incorporated into the alternatives in compliance with various Federal and State statutes.

3. *Scoping Process.*—a. The study plan provides for public scoping, meetings, and comment. The Corps has initiated a process of involving concerned Federal, State, and local agencies and individuals. The City of Woodland Task Force has held periodic public meetings to discuss issues and solicit public comment.

b. Public involvement during the reconnissance phase of the study included the ''Notice of Initiation of a Reconnaissance Study, Westside Tributaries to Yolo Bypass, Flood Control Investigation, California,'' that was sent to Federal, State, county, and city agencies and other interested groups and individuals in May 1993. The Corps participated in a number of meetings with the Yolo County Board of Supervisors and the Yolo-Solano Flood Control Task Force to brief participants including other public agencies, organizations, and interested individuals on the proposed alternatives. Comments received focused on flooding along Cache Creek, land subsidence, gravel mining, and effects of the alternatives on the Cache Creek Settling Basin. On April 15 and May 6, 1996, the Corps held public workshops in Woodland to present the study result and discuss the procedures to complete the reconnaissance phase and initiate the feasibility phase of the study.

c. Issues that will be analyzed in depth in the draft EIS/EIR include effects on vegetation and wildlife, special-status species, water quality, air quality, socio-economic conditions, and cultural resources. Other issues may include geology, soils, topography, noise, esthetics, climate and recreation.

d. The U.S. Fish and Wildlife Service will provide the Fish and Wildlife Coordination Act Report.

e. A 45-day review period will be allowed for all interested agencies and individuals to review and comment on the draft EIS/EIR. All interested persons are encouraged to respond to this notice and provide a current address if they wish to be contacted about the draft EIS/EIR.

4. A public scoping meeting will be held on May 30, 2000, from 7 p.m. to 9 p.m. at the Heidrick Ag History Center at 1962 Hays Lane in Woodland, Yolo County, California.

5. *Availability.* The draft EIS/EIR is scheduled to be available for public review in August 2001.

Dated: April 17, 2000.

Robert A. O'Brien III,

LTC, EN, Acting Commander.

[FR Doc. 00–11294 Filed 5–4–00; 8:45 am]

BILLING CODE 3710–EZ–M

DEPARTMENT OF ENERGY

[Docket Nos. FE C&E 00–06, C&E 00–07, C&E 00–08, C&E 00–09 and C&E 00–10; Certification Notice—186]

Office of Fossil Energy; Notice of Filings of Coal Capability of Gateway Power Project, L.P., Rio Nogales Power Project, L.P., Conectiv Energy, Inc., AES Londonderry, LLC and Calpine Construction Finance Co., L.P. Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Gateway Power Project, L.P., Rio Nogales Power Project, L.P., Conectiv Energy, Inc., AES Londonderry, LLC and Calpine Construction Finance Company, L.P. submitted coal capability self-certifications pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 4G–039, FE–27, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owners/operators of the proposed new baseload powerplants have filed a self-certification in acccordance with section 201(d).

Owner: Gateway Power Project, L.P. (C&E 00–06).
Operator: Gateway Power Project, L.P.
Location: Gilmer, TX.
Plant Configuration: Combined-cycle.
Capacity: 800 MW.
Fuel: Natural gas.
Purchasing Entities: Utilities and power marketers in Texas and surrounding states.
In–Service Date: September 1, 2002

Owner: Rio Nogales Power Project, L.P. (C&E 00–07).
Operator: Rio Nogales Power Project, L.P.
Location: Seguin, TX.
Plant Configuration: Combined-cycle.
Capacity: 800 MW.
Fuel: Natural gas.
Purchasing Entities: Utilities and power marketers in Texas.
In-Service Date: June 1, 2002.

Owner: Conectiv Energy, Inc. (C&E 00–08).
Operator: Conectiv Energy, Inc.
Location: Wilmington, DE.
Plant Configuration: Combined-cycle.
Capacity: 550 MW.
Fuel: Natural gas.
Purchasing Entities: Various entities interconnected in the PJM Power Pool, including Conectiv Power Delivery.
In-Service Date: May 2001.

Owner: AES Londonderry, L.L.C. (C&E 00–09).
Operator: AES Londonderry, L.L.C.
Location: Town of Londonderry, County of Rockingham, NH.
Plant Configuration: Combined-cycle.
Capacity: 724 MW.
Fuel: Natural gas.
Purchasing Entities: Wholesale power purchasers and into the spot markets administered by ISO New England.
In-Service Date: June 2002.

Owner: Calpine Construction Finance Company, L.P. (C&E 00–10).
Operator: Calpine/GenTex Lost Pines Operations, L.P.
Location: Bastrop County, Texas.
Plant Configuration: Combined-cycle.
Capacity: 500 MW.
Fuel: Natural gas.
Purchasing Entities: Electric output sold on a ''merchant'' basis under power purchase agreements to be negotiated.
In-Service Date: June 1, 2001.

Issued in Washington, DC, April 26, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 00–11248 Filed 5–4–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for review under sections 3507 (h)(1) and 3506(c) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Each entry contains the following information: (1) The collection number and title; (2) a summary of the collection of information (includes the sponsor which is the Department of Energy component), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement), response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) a description of the likely respondents; and (5) an estimate of the total annual reporting burden (*i.e.,* the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

DATES: Comments must be filed on or before June 5, 2000. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The OMB DOE Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Miller may be contacted by telephone at (202) 426–1103, FAX at (202) 426–1081, or e-mail at Herbert.Miller@eia.doe.gov.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. EIA–902, ''Annual Geothermal Heat Pump Manufacturers Survey.''

2. Energy Efficiency and Renewable Energy; OMB Number 1901–0303; Three-Year Extension; Mandatory.

3. EIA–902 is designed to collect information on the emerging domestic geothermal heat pump industry. The economics of geothermal heat pumps have improved in recent years and the pumps are more competitive with conventional heating, cooling, and water heating systems. Data collected will be from U.S. geothermal heat pump manufacturers. The data will be used by DOE, the heat pump industry, and the public. The data will also be published.

4. Business or other for-profit.

5. 160 hours (4 hours × 1 response per year × 40 respondents).

Statutory Authority: Sections 3507(h)(1) and 3506(c) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC, May 1, 2000.

Stanley R. Freedman,

Acting Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 00–11249 Filed 5–4–00; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6600–1]

Agency Information Collection Activities: Continuing Collection; Comment Request; Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types, EPA ICR Number 1572.04, OMB Control Number 2050–0050, expires June 30, 2000. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 5, 2000.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–2000–SUIP–FFFFF to: (1) If using regular US Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002, or (2) if using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. Comments may also be submitted electronically through the Internet to: rcra-docket@epa.gov. Comments in electronic format should also be identified by the docket number F–2000–SUIP–FFFFF and must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the ''Supplementary Information'' section for information on accessing them.

The ICR is available on the Internet at <http://www.epa.gov/epaoswer/hazwaste/tsds/specific/index.htm>.

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register**. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800 424–9346 or TDD 800 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412–9810 or TDD 703 412–3323. For more detailed information on specific aspects of this rulemaking, contact David Eberly, Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002, by phone at 703–308–8645, or by e-mail at *eberly.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are owners and operators of hazardous waste treatment, storage, and disposal facilities.

Title: Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types, EPA ICR Number 1572.04, OMB Control Number 2050–0050, expiration date June 30, 2000.

Abstract: Section 3004 of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, requires that the U.S. Environmental Protection Agency develop standards for hazardous waste treatment, storage, and disposal facilities (TSDFs), as may be necessary, to protect human health and the environment. Section 3004, Subsections (1), (3), (4), (5), and (6) specify that these standards include, but not be limited to, the following requirements:

(1) Maintaining records of all hazardous wastes identified or listed under this title which are treated, stored, or disposed of, *** and the manner in which such wastes were treated, stored, or disposed of;

(3) Treatment, storage, or disposal of all such waste received by the unit pursuant to such operating methods, techniques, and practices as may be satisfactory to the Administrator;

(4) The location, design, and construction of such hazardous waste treatment, disposal, or storage facilities;

(5) Contingency plans for effective action to minimize unanticipated damage from any treatment, storage, or disposal of any such hazardous waste; and

(6) The maintenance or operation of such facilities and requiring such additional qualifications as to ownership, continuity of operation, training for personnel, and financial responsibility as may be necessary or desirable.

All of the collection requirements covered in this ICR have been published in 40 CFR parts 261, 264 and 265, subparts J through DD, and 40 CFR part 266, subpart F. With each collection covered in this ICR, EPA is aiding the goal of complying with its statutory mandate under RCRA to develop standards for hazardous waste TSDFs, as may be necessary, to protect human health and the environment.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Burden Statement: EPA estimates that the total annual respondent cost for all activities covered in this ICR is $11,934,785. This cost includes annual labor, capital, and operation and maintenance (O&M) costs to be incurred by respondents affected by the information collection requirements covered in this ICR. EPA estimates an average hourly respondent labor cost (including overhead) of $90.00 for legal staff, $69.30 for managerial staff, $54.33 for technical staff, and $24.29 for clerical staff. As shown in the table, EPA estimates that, each year, a total of 3,187 units will be subject to the information collection requirements covered in this ICR. Of these 3,187 units, 375 units are existing interim status units that will remain in the interim status universe, 100 units are interim status units that will enter the permitted universe, 2,688 units are existing permitted units, and 24 units are new permitted units. The number of respondents varies depending upon the category of each unit and the required activity.

This ICR is an exhaustive description of the total respondent burden for all activities related to specific unit requirements and special waste processes and types. From 1996 to 2000, total respondent hourly burden decreased by 42 percent and total respondent financial burden decreased by 37 percent. The burden decreased for a number of reasons. First, in revising this ICR, EPA significantly improved its estimated number of specific units in the interim status and permitted universes. In addition, labor rates were adjusted in this ICR. In the 1996 ICR, EPA had overestimated the overhead factor and thus, the labor rates of the respondents conducting the activities covered in this ICR. In addition, EPA removed all federally owned or operated units from the respondent universe. Thus, EPA's estimates of the overall total respondent burden and cost has decreased. EPA believes that the burden and cost reflects a more comprehensive and, therefore, a more accurate portrait of the existing hourly and financial burden on the regulated community.

For tank systems, the public reporting burden is estimated to average six hours per respondent per year. The record keeping burden is estimated to average 155 hours per respondent per year.

For surface impoundments, the public reporting burden is estimated to average two hours per respondent per year. The record keeping burden is estimated to average 152 hours per respondent per year.

For waste piles, there is no public reporting burden associated with the requirements covered in this ICR. The record keeping burden is estimated to average 20 hours per respondent per year.

For land treatment units, the public reporting burden is estimated to average one hour per respondent per year. The record keeping burden is estimated to average one hour per respondent per year.

For landfills, the public reporting burden is estimated to average seven hours per respondent per year. The record keeping burden is estimated to average 80 hours per respondent per year.

For incinerators, the public reporting burden is estimated to average two hours per respondent per year. The record keeping burden is estimated to average three hours per respondent per year.

For thermal treatment units, there is no public reporting or record keeping burden associated with the requirements covered in this ICR.

For chemical, physical, and biological treatment units, there is no public reporting or record keeping burden associated with the requirements covered in this ICR.

For drip pads, there is no public reporting or record keeping burden associated with the requirements covered in this ICR.

For miscellaneous units, there is no public reporting or record keeping burden associated with the requirements covered in this ICR.

For process vents, the public reporting burden is estimated to average ten hours per respondent per year. The record keeping burden is estimated to average 1,072 hours per respondent per year.

For equipment leaks, the public reporting burden is estimated to average seven hours per respondent per year. The record keeping burden is estimated to average 83 hours per respondent per year.

For containment buildings, the public reporting burden is estimated to average six hours per respondent per year. The record keeping burden is estimated to average 56 hours per respondent per year.

For specific hazardous waste recovery and recycling units, there is no public reporting burden associated with these requirements. The record keeping burden is estimated to average four hours per respondent per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of

information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 21, 2000.

Matthew Hale,

Acting Director, Office of Solid Waste.

[FR Doc. 00–11283 Filed 5–4–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6588–3]

Acid Rain Program; Notice of the Filing of Petition for Administrative Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of the filing of petition for administrative review.

SUMMARY: The purpose of this notice is to announce the filing, with EPA's Environmental Appeals Board (EAB), of a petition for review by UtiliCorp United, Inc. (UCU) of a decision issued by EPA's Office of Air and Radiation, Clean Air Markets Division. This decision and petition for review concern a request submitted by UCU for approval of methods for apportionment of the nitrogen oxide (NO_X) emissions from a common stack at UCU's Sibley, Missouri facility.

FOR FURTHER INFORMATION CONTACT: Dwight C. Alpern, Attorney-Advisor, Clean Air Markets Division (6204J), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460 at (202) 564–9151.

SUPPLEMENTARY INFORMATION: On April 5, 2000, UCU filed, with the EAB, a petition for review (Appeal No. CAA–004) of a decision by EPA's Office of Air and Radiation, Clean Air Markets Division, dated March 6, 2000, disapproving UCU's petition for approval of methods for apportionment of the NO_X emissions from a common stack at UCU's facility located at Sibley, Missouri. The appeal raises issues regarding the requirements of 40 CFR 75.17(a)(2)(iii). The appeals was filed under 40 CFR part 78 of the Acid Rain regulations and requested an evidentiary hearing. Motions for leave to intervene in Appeal No. CAA–004 under 40 CFR 78.11 must be filed by May 22, 2000 with the EAB.

Dated: May 1, 2000.

Brian J. McLean,

Director, Clean Air Markets Division.

[FR Doc. 00–11281 Filed 5–4–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6353–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 17, 2000 through April 21, 2000 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 09, 1999 (63 FR 17856).

Draft EISs

ERP No. D–DOE–E09806–TN Rating EC2, Treating Transuranic (TRU)/Alpha Low-Level Waste at the Oak Ridge National Laboratory, Construct, Operate, and Decontaminate/Decommission of Waste Treatment Facility, Oak Ridge, TN.

Summary: EPA expressed environmental concerns regarding the issue of process releases and the resulting risk to humans. EPA requested that additional information be provide on the risk issue and the preferred alternative.

ERP No. D–TVA–E65054–TN Rating EC2, Tellico Reservoir Land Management Plan, Implementation of Seven Mainstream and Two Tributary Reservoirs, Blount, Loudon and Monroe, TN.

Summary: EPA expressed concerns with aspects of some of the proposed zones, such as planned timber harvesting and certain commercial/industrial development. EPA suggested that the Plan be revised to eliminate or minimize timber harvesting of circumferential reservoir lands and islands and eliminate incompatible forms of commercial and industrial development.

Final EISs

ERP No. F–BIA–A65165–00 Programmatic EIS—Navajo Ten Year Forest Management Plan Alternatives, Implementation and Funding, AZ and NM.

Summary: No formal comment letter was sent to the preparing agency.

Dated: May 2, 2000

Joseph C. Montgomery,

Director, NEPA Compliance Director, Office of Federal Activities.

[FR Doc. 00–11308 Filed 5–4–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6353–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa.

Weekly receipt of Environmental Impact Statements filed April 24, 2000 through April 28, 2000 pursuant to 40 CFR 1506.9.

EIS No. 000129, Final EIS, AFS, CO, Uncompahgre National Forest Travel Plans Revision, Implementation, Grand Mesa, Uncompahgre and Gunnison National Forests, Garrison, Hinsdale Mesa, Montrose, Ouray and San Juan Counties, CO, Due: June 5, 2000, Contact: Jeff Burch (970) 874–6600.

EIS No. 000130, Draft EIS, FHW, MO, New Mississippi River Crossing, Relocated I–70 and I–64 Connector, Funding, COE Section 404 and 10 Permits and NPDES Permit, St. Louis County, MO, Due: June 20, 2000, Contact: Ronald C. Marshall (217) 492–4600.

EIS No. 000131, Draft EIS, AFS, ID, Box Canyon Timber Sale, Vegetative Management, Implementation, Palisades Ranger District, Caribou-Targhee National Forest, Bonneville County, ID, Due: June 19, 2000, Contact: Jerry B. Reese (208) 624–3151.

EIS No. 000132, Draft EIS, AFS, CA, NV, Sierra Nevada Forest Plan Amendment Project, Implementation, several counties, CA and NV, Due: August 11, 2000, Contact: John Bradford (916) 498–5075.

EIS No. 000133, Draft Supplement, FTA, NY, Buffalo Inner Harbor Development Project, Waterfront Redevelopment, Funding and COE Section 10 and 404 Permit Issuance, New Information in Response to a Court Order concerning Historic Preservation, Erie County, NY, Due: May 31, 2000, Contact: Anthony G. Carr (212) 668–2170. Under Federal Court Decision and Order No. 99–CV–745S a SDEIS was to be prepared to consider archaeological investigations conducted after the FEIS. The Federal court order establishes a public

review period for the DSEIS beginning May 10, 2000 and ending May 31, 2000. Written comments must be received by 5:00 P.M. on May 31, 2000 to be considered in the FSEIS. Comments are to be sent to Ruta Dzenis AICP, Project Director, Empire State Development Corporation, 420 Main Street, Suite 717, Buffalo, NY 14202. A public hearing will be held on May 24, 2000 from 7:00–9:00 P.M. at the Erie Community College, City Campus Auditorium, 121 Ellicott Street, Buffalo, NY 14203.

Dated: May 2, 2000.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–11309 Filed 5–4–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00439B; FRL–6558–8]

Pesticide Program Dialogue Committee (PPDC): Inert Disclosure Stakeholder Workgroup; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: This notice announces a conference call meeting of the Inert Disclosure Stakeholder Workgroup. The workgroup was established to advise the Pesticide Program Dialogue Committee (PPDC) on ways of making information on inert ingredients more available to the public while working within the mandates of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and related Confidential Business Information (CBI) concerns.

DATES: The meeting will be held by conference call on Tuesday, May 9, 2000 from 12:00 p.m. to 3:00 p.m. EST.

ADDRESSES: Members of the public may listen to the meeting discussions on site at: Crystal Mall #2 (CM #2), 1921 Jefferson Davis Highway, Arlington, VA 22202; Conference Room 1123. Seating is limited and will be available on a first come first serve basis.

FOR FURTHER INFORMATION CONTACT: By mail: Cameo Smoot, Office of Pesticide Programs (7506C), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone: (703) 305–5454. Office locations: 11th floor, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. E-mail: smoot.cameo@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The Inert Disclosure Stakeholder Workgroup is composed of a participants from the following sectors: environmental/public interest and consumer groups; industry and pesticide users; Federal, State and local governments; the general public; academia and public health organizations.

The Inert Disclosure Stakeholder Workgroup, will advise the United States Environmental Protection Agency, through the Pesticide Program Dialogue Committee (PPDC), on potential measures to increase the availability to the public of information about inert ingredients (also called ''other ingredients'') under FIFRA. Among the factors the workgroup has been asked to consider in preparing its recommendations are: existing law regarding inert ingredients and CBI; current Agency processes and policies for disseminating inert ingredient information to the public, including procedures for the protection of CBI; informational needs for a variety of stakeholders; and business reasons for limiting the disclosure of inert ingredient information.

The Inert Disclosure Stakeholder Workgroup meeting is open to the public. Written public statements are welcome and should be submitted to the OPP administrative docket OPP–00439B. Any person who wishes to file a written statement can do so before or after the conference call. These statements will become part of the permanent file and will be provided to the Workgroup members for their information.

B. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00439B in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments and/or data electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described in Units B.1. and 2. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00439B. Electronic comments may also be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Pesticides, Inerts, PPDC.

Dated: May 2, 2000.

Joseph J. Meranda,

Acting Director, Office of Pesticide Programs.

[FR Doc. 00–11409 Filed 5–3–00; 1:58 pm]

BILLING CODE 6561–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30494; FRL–6555–7]

Pesticide Product; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30494, must be received on or before June 5, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30494 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Biopesticides

and Pollution Prevention Division (7511C), Office of Pesticides Programs, Environmental Protection Agency, Ariel Rios Bldg., Washington, DC 20460. Office location, telephone number, and e-mail address: 9th Floor, CM #2, 1921 Jefferson Davis Hwy, Arlington, VA 22202; (703) 308–8715; mendelsohn.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production. Animal production. Food manufacturing. Pesticide manufacturing.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–30494. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30494 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e- mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30494. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. These applications had previously been reported as seed increase registration applications on

November 26, 1999 (64 FR 66474) (FRL–6390–3). The applicants have subsequently modified their application to request full commercial use. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included in Any Previously Registered Products

1. File Symbol: 68467–E. Applicant: Mycogen Seeds, c/o Dow Agrosciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. Product name: Mycogen Brand Bt Cry1F Corn. Active ingredient: *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn plants. Proposed classification/Use: None. For full commercial use.

2. File Symbol: 29964–G. Applicant: Pioneer Hi-Bred International, Inc., 7250 NW 62nd Avenue, P.O. Box 552, Johnston, Iowa 50131–0552. Product name: Pioneer Brand Bt Cry1F Corn. Active ingredient: *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn plants. Proposed classification/Use: None. For full commercial use.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: April 27, 2000.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 00–11150 Filed 5–4–00; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

April 28, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 5, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0307.

Title: Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of FMR Systems in the 800 MHz Frequency Band.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 12,195.

Estimated Time Per Response: .5 hours to 5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 23,073 hours.

Total Annual Cost: $7,591,000.

Needs and Uses: This collection will promote Congress' goal of regulatory parity for all commercial mobile radio services, and encourage the participation of a wide variety of applicants, including small businesses, in the SMR industry. In addition, this collection will establish rules for the SMR services in order to streamline the licensing process and provide a flexible operating environment for licensees, foster competition, and promote the delivery of service to all areas of the country, including rural areas.

The Commission submitted this information collection to OMB under the emergency processing provisions on 4/10/00. We received OMB approval on 4/21/00 for approximately six months. This submission is being made to extend the current OMB approval for the full three-year cycle.

OMB Control No.: 3060–0370.

Title: Part 32—Uniform System of Accounts for Telecommunications Companies.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 239.

Estimated Time Per Response: 105 hours to 44,511 hours.

Frequency of Response: Recordkeeping requirement, on occasion reporting requirements.

Total Annual Burden: 2,280,080 hours.

Total Annual Cost: N/A.

Needs and Uses: The Uniform System of Accounts is a historical financial accounting system which reports the results of operational and financial events in a manner which enables both management and regulators to assess these results with a specified accounting period. Subject respondents are telecommunications companies. Entities having annual revenues from regulatory telecommunications operations of less than $100 million are designated as Class B and are subject to a less detailed accounting system than those designated as Class A companies. Part 32 imposes essentially recordkeeping requirements. The reporting requirements contained in the rulepart are sporadic or initiated by the carriers. The information contained in the various reports submitted to the Commission by the carriers provides necessary detail to enable the Commission to fulfill its regulatory responsibilities.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–11239 Filed 5–4–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[DA 00–912]

Year 2000 Deadline for Compliance With Commission's Regulations Regarding Human Exposure to Radiofrequency Emissions

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission released a document on April 27, 2000, that reminds all of the Commission's licensees and grantees of the impending deadline for ensuring compliance with provisions of the Commission's rules. It is the responsibility of the licensee or grantee to either take action to bring the facility, operation or device into compliance or file an Environmental Assessment (EA) with the Commission no later than September 1, 2000. After September 1, 2000, if any facility, operation or device is found not to be in compliance with the Commission's RF exposure guidelines, and if the required EA has not been filed, the Commission will consider this to be a violation of its rules resulting in possible fines, forfeiture or other actions deemed appropriate by the Commission.

FOR FURTHER INFORMATION CONTACT: Robert Cleveland, Office of Engineering and Technology, (202) 418–2422.

SUPPLEMENTARY INFORMATION: This is a summary of the text of the Public Notice, DA 00–912, released April 27, 2000. The document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW Washington, DC 20036.

Summary of Public Notice

1. On August 25, 1997, the Commission adopted the second of two Orders finalizing its rules regarding compliance with safety limits for human exposure to radiofrequency (RF) emissions, 62 FR 47960, September 12, 1997. The effective dates for implementation of the revised rules were August 1, 1996, for devices subject to equipment authorization, such as cellular and PCS telephones, and October 15, 1997, for other transmitting facilities and operations (except the Amateur Radio Service for which the effective date was January 1, 1998). For devices, facilities and operations authorized or licensed by the Commission prior to the appropriate effective date, the following provision was adopted in reference to 47 CFR 1.1307(b)(1) through 1.1307(b)(3): ''All existing transmitting facilities, operations and devices regulated by the Commission must be in compliance with the requirements of paragraphs (b)(1) through (b)(3) of this section by September 1, 2000, or, if not in compliance, file an Environmental Assessment as specified in § § 1.1307(b)(5) and 1.1311.'' If such an Environmental Assessment (''EA'') is required, the obligation to file it would fall upon the licensee presently holding the permit or license to transmit, or the party presently holding the grant of equipment authorization.

2. An EA is a formal document required by the National Environmental Policy Act whenever an action may have a significant environmental impact. Section 1.1311 of the Commission's rules, 47 CFR 1.1311, explains what information must be included in an EA. The Commission's rules require that EAs accompany applications for licenses, renewals or other Commission actions when there is evidence of environmental impact for a variety of categories. An EA would be considered by the Commission to determine whether the environmental impact described is significant and whether further action is needed to minimize or eliminate the environmental effect. Filing procedures for EAs may vary depending on the specific authorizing bureau or office. Information on specific filing procedures can be obtained at the appropriate Web site address or phone number found at the end of this notice. With respect to antennas located on fixed structures, filers of EAs should be aware that non-RF environmental issues must be addressed in any EA filed with the Commission in accordance with the requirements of § 1.1311 and the Commission's environmental rules in § § 1.1301 thorugh 1.1319.

3. The purpose of this Public Notice is to remind all of the Commission's licensees and grantees of the impending September 1 deadline for ensuring compliance with these provisions of its rules. Therefore, if an existing facility, operation or device of a licensee or grantee is not in compliance with the provisions of 47 CFR 1.1307(b)(1) through (b)(3), it is the responsibility of the licensee or grantee to either take action to bring the facility, operation or device into compliance or file an EA with the Commission no later than September 1, 2000. After September 1, 2000, if any facility, operation or device is found not to be in compliance with the Commission's RF exposure guidelines, and if the required EA has not been filed, the Commission will consider this to be a violation of its rules resulting in possible fines, forfeiture or other actions deemed appropriate by the Commission. With respect to antennas located on fixed structures, it is the responsibility of the respective licensees, not tower owners, to undertake an environmental evaluation and file EAs, if required, due to non-compliance with our RF rules.

4. It is important to note that the Commission's RF exposure rules apply to all facilities, operations and devices regulated by the Commission. While a given facility, operation or device might be categorically excluded from routine evaluation for RF exposure by § 1.1307(b)(1) of our rules, it must still comply with the FCC's exposure guidelines.

5. Consumers should be aware that hand-held cellular and PCS telephones that were authorized by the FCC after the August 1, 1996, effective date have been evaluated for compliance with FCC guidelines for safe exposure. Furthermore, PCS devices subject to equipment authorization have been required to comply with our RF guidelines since 1994. This means that a large number, if not the majority, of cellular and PCS telephones now in use in the United States have already been evaluated for compliance with the FCC's RF exposure limits. To the extent that a wireless handset received an FCC authorization prior to the August 1, 1996, effective date, and is still being produced and marketed, manufacturers of such handsets will be required to file EAs if the handset in question is not in compliance with the FCC's RF guidelines.

6. Further information on the Commission's RF exposure rules and on evaluating compliance with FCC RF guidelines may be found at the Commission's RF Safety Web page: www.fcc.gov/oet/rfsafety. In particular, the Office of Engineering and Technology's OET Bulletin 65 and supplements to this bulletin (all available at the Web Site for viewing and downloading) offer detailed guidance on evaluating compliance. Requests for information or copies of these documents can also be directed to the FCC's RF Safety Program in the Office of Engineering and Technology, (202) 418–2464 or by e-mail to: rfsafety@fcc.gov.

7. For information on specific filing procedures for EAs, licensees and grantees should consult the following

Web Sites or contact the appropriate FCC office or bureau:

- Wireless Telecommunications Bureau: www.fcc.gov/wtb; Irene Griffith: (202) 418–1315.
- Mass Media Bureau: www.fcc.gov/mmb; FM (Brian Butler): (202) 418–2700;
- AM (Joseph Szczesny): (202) 418–2700; TV (John Morgan): (202) 418–1600.
- International Bureau: www.fcc.gov/ib; (202) 418–2222.
- Office of Engineering and Technology: www.fcc.gov/oet; (202) 418–2464.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–11237 Filed 5–4–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–237; FCC 00–140]

Implementation of Infrastructure Sharing Provisions in the Telecommunications Act of 1996

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission affirms in part and modifies in part its original Report and Order implementing section 259 of the Telecommunications Act of 1996 (''1996 Act''). This action is taken to respond to Petitions for Reconsideration that were received by the Commission following release of its original Report and Order. By affirming and clarifying its original Report and Order, the Commission provides parties negotiating section 259 arrangements with a better understanding of their responsibilities.

FOR FURTHER INFORMATION CONTACT: Gregory Guice, Industry Analysis Division, Common Carrier Bureau, at (202) 418–0095.

SUPPLEMENTARY INFORMATION: This is a summary of the Order on Reconsideration released April 27, 2000 (FCC 00–140). The full text of the Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW, Washington, DC 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857–3800, 1231 20th Street, NW, Washington, DC 20037. Additionally, the complete item is available on the Commission's website at <http://www.fcc.gov/Bureaus/Common_Carrier/Orders/2000>.

Synopsis of the Inquiry

1. In the document summarized here, the Federal Communications Commission affirms in part and clarifies in part its original Report and Order implementing section 259 of the Telecommunications Act of 1996 (''1996 Act''). In the 1996 Act, Congress moved to restructure the local telecommunications market by removing legal, regulatory, and economic impediments to competition that sustain a monopoly environment. As part of this restructuring, Congress adopted section 259, which requires incumbent LECs to make available, under certain conditions, public switched network infrastructure and other capabilities to a carrier requesting access, or a ''qualifying carrier,'' that is providing telephone exchange service outside the incumbent LEC's area. On February 7, 1997, the Commission promulgated general rules and guidelines to define the obligations imposed by section 259. *Implementation of Infrastructure Sharing Provisions in the Telecommunications Act of 1996,* 62 FR 9704 (Mar. 4, 1997) (''Infrastructure Sharing Order''). Recognizing that a qualifying carrier may not use the facilities or functions of the incumbent LEC to compete in the incumbent's telephone exchange area, as is the case in other market opening provisions of the 1996 Act such as sections 251 and 252, the *Infrastructure Sharing Order* adopted an approach that depends in large part on negotiations among the interested parties.

2. Specifically in this Order on Reconsideration, the Commission affirms its decision to implement section 259 through a negotiation-driven approach that relies on parties to reach mutually-satisfactory terms for infrastructure sharing. It further affirms its decision to not rely on definitions that are restrictively based on perceptions of present network requirements, and therefore, affirms that things which might be characterized as ''services'' by the incumbent LEC are not *per se* excluded from section 259 arrangements.

3. The Commission modifies, however, the *Infrastructure Sharing Order* in the following manner. First, the Commission clarifies that because 259(b)(6) prevents qualifying carriers from using section 259-requested infrastructure to compete with the providing incumbent LEC in its telephone exchange area, ''resale,'' as that term is used in conjunction with section 251 of the 1996 Act, is not permitted under section 259 arrangements. Second, the Commission clarifies that nothing in its rules would require an incumbent LEC to make available the intellectual property of third parties without necessary licensing or in violation of existing licensing agreements. Third, the Commission modifies the *Infrastructure Sharing Order* by placing the primary burden to obtain third-party intellectual property and licensing rights on the carrier requesting access to the incumbent LECs infrastructure. However, the Commission requires that incumbent LECs engage in good faith efforts, whenever requested, to help resolve intellectual property and licensing disputes between qualifying carriers and third-party vendors.

4. Finally, the Commission rejects a petition by MCI requesting the Commission exercise pricing authority and mandate particular prices for shared infrastructure obtained by qualifying carriers pursuant to section 259.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–11238 Filed 5–4–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: Make Your Mark on the Floodplain—High Water Mark Form.

Type of Information Collection: Extension of a currently approved collection.

OMB Number: 3067–0268.

Abstract: The Federal Emergency Management Agency (FEMA) has entered into a partnership with the U.S. Army Corps of Engineers (COE) in the Portland District to assist the Agency in providing floodplain management assistance at the most basic and needed level, that of local floodplain managers

and the local communities. The joint efforts of FEMA and the COE continue to assure safe and sound developments near floodplains. The Make Your Mark on the Floodplain handout and accompanying High Water Mark Form is used to establish uniform and consistent methodologies for setting and recovering high water marks following a significant flood event. After a major flood, anyone who has high water marks on their property or who has observed flood marks on public property can use the form to record high water mark information, including location, measurements, and description of the marks read. The data will be used by FEMA in post-flood damage assessments. The data will define a frequency/damage relationship for the flooding event and provide calibration information for future analysis. The U.S. Army Corps of Engineers will assist FEMA in collecting and compiling high water mark data.

Affected Public: State, Local or Tribal Government, Individual or Households, Business or Other For-Profit, Not-For-Profit Institutions, Farms.

Number of Respondents: 7,500.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 2,500.

Frequency of Response: On Occasion (after each significant flood event).

COMMENTS: Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email muriel.anderson@fema.gov.

Virginia Akers,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 00–11261 Filed 5–4–00; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: The Federal Emergency Management Agency/Federal Insurance Administration's Cover America II Project.

Type of Information Collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

OMB Number: 3067–0267.

Abstract: FEMA/Federal Insurance Administration will conduct research with consumers, business-owners and insurance agents to (1) establish flood insurance in the minds of consumers as the best method for recovering from flood damage, (2) promote flood insurance as must-have protection that is easily available and relatively inexpensive; and (3) stimulate demand for flood insurance by linking it to strong positive motivators, such as peace of mind and financial security.

Affected Public: Individuals or households, Business or Other For-Profit, Not For-Profit Institutions and State, Local or Tribal Government.

Estimated Total Annual Burden Hours: 3,082.

FY 2000	Number of respondents	Response frequency	Burden per respondent	Total burden hours
Quantitative Tracking—Time I	1,200 Consumers 300 Agents	1	25	500 Consumers. 250 Agents.
Quantitative Tracking—Time II	1,200 Consumers 300 Agents	1	25	500 Consumers. 250 Agents.
Satisfaction with Flood	900 Consumers	1	20	300 Consumers.
Insurance Program Study (once a year)	300 Agents 10 WYOs			100 Agents. 3 WYOs.
Stage I—Preliminary Advertising Development among Consumers.	80	1	120	160.
Stage II—Evaluation of Agent Advertising	200	1	120	400.
Lender Survey—Time I	300	2	20	100.
Lender Survey—Time II	300	2	20	100.
Radio Test (Pre Ad Implementation	200	4	10	133.
Radio Test (Post Ad Implementation	200	4	10	133.
Insurance Agents' Satisfaction with NFIP Co-op Advertising Program.	700	1	10	117.
After the Flood Contest—Agents	250	1	60	250.
After the Flood Contest—Consumers	250	1	5	21.
National Flood Insurance Leads Application Form	448	1	2	15.
Total	5,138		387	3,082.

Cost to Respondents: $10,026,000.

Cost to Federal Government: $1,153,187,000.

Comments

Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW., Room 316,

Washington, DC 20472. Telephone number (202) 646–2625. FAX (202) 646–3524 or email muriel.anderson@fema.gov.

Virginia Akers,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 00–11262 Filed 5–4–00; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: General Admissions Application and General Admissions Application Short Form.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 3067–0024.

Abstract: NFA and EMI (located at the National Emergency Training Center (NETC) in Emmitsburg, Maryland) use FEMA Forms 75, General Admissions Application, and 75–5a, General Admissions Application Short Form, to admit applicants to resident courses and programs offered at NETC, Mount Weather Emergency Assistance Center (MWEAC) and various locations throughout the United States. Information from the application forms is maintained in the Admissions System. The system (1) provides a consolidated record of all FEMA training taken by a student; (2) identifies or verifies participation in any prerequisite courses; (3) produces a transcript which can be used by the student in requesting college credit or continuing education units for courses completed; (4) provides statistical information to members of Congress, members of the respective Boards of Visitors, sponsoring states or local officials; and (5) determines which students receive stipends for attending NFA or EMI courses.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, Federal Government, and State, Local or Tribal government.

Number of Respondents: 65,000.

Estimated Time per Respondent: 9 minutes for FEMA Form 75–5 and 6 minutes for FEMA Form 75–5a.

Estimated Total Annual Burden Hours: 8,500.

Frequency of Response: As requested.

COMMENTS: Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email muriel.anderson@fema.gov.

Virginia Akers,

Acting Director, Program Services Division, Operations Support Directorate.

[FR Doc. 00–11263 Filed 5–4–00; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1324–DR]

Maryland; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maryland (FEMA–1324–DR), dated April 10, 2000, and related determinations.

EFFECTIVE DATE: April 27, 2000.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maryland is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 10, 2000: Emergency protective measures (Category B) under Public Assistance for Dorchester County.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Patricia K. Stahlschmidt,

Division Director, Infrastructure Division, Response and Recovery Directorate.

[FR Doc. 00–11264 Filed 5–4–00; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 19, 2000.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President), 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Milford Norman Osborne & Edith Osborne, both of Texarkana, Arkansas, and Richard Wagnon & Sheila Osborne Wagnon, both of Batesville, Arkansas; to acquire additional voting shares of First Community Bancshares, Inc., Batesville, Arkansas, and thereby indirectly acquire additional voting shares of First Community Bank of Batesville, Batesville, Arkansas.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group), 101 Market Street, San Francisco, California 94105–1579:

1. George Gund III, as trustee for the Gund Trust, San Francisco, California; to retain voting shares of Great Basin Financial Corporation, Elko, Nevada, and thereby retain voting shares of Great Basin Bank of Nevada, Elko, Nevada.

Board of Governors of the Federal Reserve System, May 1, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–11188 Filed 5–4–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 22, 2000.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Robert and Michelle Sullivan, and Michael and Nancy Van Cleef, all of Carleton, Nebraska; to acquire voting shares of Carleton Agency, Inc., Carleton, Nebraska, and thereby indirectly acquire voting shares of Citizens State Bank, Carleton, Nebraska.

Board of Governors of the Federal Reserve System, May 2, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–11292 Filed 5–4–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 30, 2000.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President), 411 Locust Street, St. Louis, Missouri 63166–2034:

1. First Banks, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of Bank of Ventura, Ventura, California.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Citizens Financial Corporation, Cortez, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens State Bank of Cortez, Cortez, Colorado.

2. Cortez Investment Co., Cortez, Colorado; to acquire 50 percent of the voting shares of Citizens Financial Corporation, Cortez, Colorado, which will acquire The Citizens State Bank of Cortez, Cortez, Colorado.

3. Vail Banks, Inc., Vail, Colorado; to merge with Estes Bank Corporation, Estes Park, Colorado; and thereby acquire United Valley Bank, Estes Park, Colorado.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group), 101 Market Street, San Francisco, California 94105–1579:

1. Amplicon, Inc., Santa Ana, California; to acquire 100 percent of the voting shares of Hutton National Bank, Santa Ana, California (in organization).

In connection with this application, Applicant also has applied to continue to engage directly in the activities of personal property leasing or acting as agent, broker or advisor in leasing personal property, pursuant to § 225.28(b)(3)of Regulation Y.

Board of Governors of the Federal Reserve System, May 1, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–11187 Filed 5–4–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 1, 2000.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Sterling Financial Corporation, Lancaster, Pennsylvania; to acquire 100 percent of the voting shares of and thereby merge with Hanover Bancorp, Inc., Hanover, Pennsylvania, and

thereby indirectly acquire Bank of Hanover Trust Company, Hanover, Pennsylvania.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Ledyard Bancorporation, Inc., Ledyard, Iowa; to become a bank holding company by acquiring 97.45 percent of the voting shares of State Bank of Ledyard, Ledyard, Iowa.

C. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. NASB Shares, Inc., Belgrade, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of North American State Bank, Belgrade, Minnesota.

In connection with this application, Applicant also has applied to acquire Borgerding Insurance Agency, Inc., Belgrade, Minnesota, and thereby engage in general insurance agency activities in a place with a population not exceeding 5,000 and where the bank holding company organization has a lending office, pursuant to § 225.28(b)(11)(iii) of Regulation Y.

D. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. The State Bank of Hoxie ESOP, Hoxie, Kansas; to acquire up to 50 percent of the voting shares of Prairie State Bancshares, Inc., Hoxie, Kansas, and thereby indirectly acquire The State Bank, Hoxie, Kansas.

Board of Governors of the Federal Reserve System, May 2, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–11291 Filed 5–4–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 22, 2000.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Ellingson Corporation, Kenyon, Minnesota; has applied to engage in selling general insurance, in a town of less than 5,000, pursuant to § 225.28(b)(11) of Regulation Y.

Board of Governors of the Federal Reserve System, May 2, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–11290 Filed 5–4–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of February 1–2, 2000

In accordance with § 71.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on February 1–2, 2000.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at this meeting established ranges for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1999 to the fourth quarter of 2000. The range for growth of total domestic nonfinancial debt was set at 3 to 7 percent for the year. The behavior of the monetary aggregates will continue to be evaluated in the light of movements in their velocities and developments in prices, the economy, and financial markets.

To further the Committee's long-run objectives of price stability and sustainable economic growth, the Committee in the immediate future seeks conditions in reserve markets consistent with increasing the federal funds rate to an average of around 5¾ percent.

By order of the Federal Open Market Committee, May 1, 2000.

Normand Bernard,

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 00–11260 Filed 5–4–00–; 8:45 am]

BILLING CODE 6210–01–P

[1] Copies of the Minutes of the Federal Open Market Committee meeting of February 1–2, 2000, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, May 10, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW, Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Discussion Agenda

1. Publication for comment of proposed new Regulation G (Disclosure and Reporting of CRA Related Agreements) to implement the Community Reinvestment Act sunshine requirements of the Gramm-Leach-Bliley Act.

2. Proposed new Regulation P (Privacy of Consumer Financial Information) to implement the provisions of the Gramm-Leach-Bliley Act that govern the protection and disclosure by financial institutions of nonpublic personal information about consumers (proposed earlier for public comment; Docket No. R–1058).

3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $6 per cassette by calling 202–452–3684 or by writing to: Freedom of

Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: May 3, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–11406 Filed 5–3–00; 12:38 pm]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: Approximately 11:00 a.m., Wednesday, May 10, 2000, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW, Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 3, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–11407 Filed 5–3–00; 12:38 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 992 3022]

Alternative Cigarettes, Inc., et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 30, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Matthew Gold, Federal Trade Commission, Western Region, 901 Market St., Suite 570, San Francisco, CA. 94103. (415) 356–5276.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 27, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Alternative Cigarettes, Inc., and its President, Joseph Pandolfino (hereinafter''Alternative Cigarettes''). The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves alleged misleading representations for Alternative Cigarettes' Pure and Glory tobacco cigarettes, and the company's Herbal Gold and Magic herbal cigarettes. Alternative Cigarettes advertised that Pure and Glory cigarettes contains no additives. According to the FTC complaint, through these advertisements respondents represented that because Pure and Glory cigarettes contain no additives, smoking them is less hazardous to a smoker's health than smoking otherwise comparable cigarettes that contain additives. The complaint alleges that respondent did not have a reasonable basis for the representation at the time it was made. Among other reasons, according to the complaint, the smoke from Pure and Glory cigarettes, like the smoke from all cigarettes, contains numerous carcinogens and toxins, including tar and carbon monoxide.

The FTC complaint further alleges that Alternative Cigarettes represented that smoking Herbal Gold and Magic herbal cigarettes does not pose the health risks associated with smoking tobacco cigarettes. According to the complaint, this claim is false, as Herbal Gold and Magic cigarette smoke, like the smoke from tobacco cigarettes, contains numerous carcinogens and toxins, including tar and carbon monoxide.

The proposed consent order contains provisions designed to prevent Alternative Cigarettes from engaging in similar acts and practices in the future. Part I of the order requires Alternative Cigarettes to include the following disclosure, clearly and prominently, in certain advertising for its tobacco cigarettes: ''No additives in our tobacco

does NOT mean a safer cigarette.'' (The order requires a similar disclosure in advertising for other tobacco products Alternative Cigarettes advertises as having no additives.) The disclosure must be included in all tobacco advertising that represents (through such phrases as ''no additives'' or ''100% tobacco'') that the product has no additives. Part I exempts Alternative Cigarettes from the disclosure requirement: (1) For cigarette advertisements not required to bear the Surgeon General's health warning; and (2) if Alternative Cigarettes possesses scientific evidence demonstrating that its ''no additives'' cigarette poses materially lower health risks than other cigarettes of the same type. In general, the disclosure required by Part I must be in the same type size and style as the Surgeon General's warning and must appear within a rectangular box that is no less than 40% of the size of the box containing the Surgeon General's warning.

Part II of the order requires Alternative Cigarettes to include the following disclosure, clearly and prominently, in advertising and on packaging for herbal cigarettes: ''Herbal cigarettes are dangerous to your health. They produce tar and carbon monoxide.'' (The order requires a similar disclosure for other herbal smoking products.) The disclosure must be included in all advertising and on packaging for herbal smoking products that represent (through such phrases as ''no tobacco,'' ''tobacco-free,'' or ''herbal'') that the product has no tobacco. Part II also contains an exemption from the disclosure requirement if Alternative Cigarettes possesses scientific evidence demonstrating that such herbal smoking products do not pose any material health risks. In general, the disclosure required by Part II must be in the same type size and style as the Surgeon General's warning and for advertisements must appear within a rectangular box that is the same size as the box containing the Surgeon General's warning.

Part III of the order requires Alternative Cigarettes to possess competent and reliable scientific evidence prior to: (1) Claiming that any herbal smoking product does not present the health risks associated with smoking tobacco cigarettes; of (2) making any claim about the health risks associated with the use of any herbal smoking product.

Part IV requires Alternative Cigarettes to send a letter to its purchasers for resale notifying them that they should discontinue the use of certain existing Alternative Cigarettes advertisements and promotional materials and that Alternative Cigarettes is required to stop doing business with purchasers for resale that do not comply with this request.

Parts V–VIII of the order contain requirements that Alternative Cigarettes keep copies of relevant advertisements and materials substantiating claims made in the advertisements; provide copies of the order to certain of its current and future personnel; notify the Commission of changes in the composition or formula of its tobacco products or herbal smoking products that may affect compliance with the order; and notify the Commission of any changes in the corporate structure that might affect compliance with the order. Part IX requires that the individual respondent notify the Commission of changes in his employment status for a period of ten years. Part X requires Alternative Cigarettes to file one or more reports detailing compliance with the order. Part XI provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–11312 Filed 5–4–00; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File Nos. 992 3246 and 992 3247]

R.N. Motors, Inc., et al. and Simmons Rockwell Ford Mercury, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreements.

SUMMARY: The consent agreements in these two matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaints that accompany the consent agreements and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before May 30, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Carole Reynolds or Michelle Chua, FTC/S–4429, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–3230 or 326–3248.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaints. An electronic copy of the full text of the consent agreements package can be obtained from the FTC Home Page (for April 27, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Orders To Aid Public Comment

Summary

The Federal Trade Commission has accepted separate agreements, subject to final approval, to proposed consent orders from respondents: (1) R.N. Motors, Inc., Red Noland Cadillac, Inc., and Nelson B. Noland (''Red Noland''); and (2) Simmons Rockwell Ford Mercury, Inc., Simmons Rockwell Autoplaza, Inc., Don Simmons, Inc., and Donald M. Simmons, II and Richard L. Rockwell (''Simmons Rockwell''). The persons named in these actions are named individually and as officers of their respective corporations.

The proposed consent orders have been placed on the public record for

thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

The Red Noland and Simmons Rockwell complaints allege that these respondents disseminated automobile lease advertisements that violate the Federal Trade Commission Act (''FTC Act''), the Consumer Leasing Act (''CLA''), and Regulation M. The Simmons Rockwell complaint also alleges that it disseminated automobile credit advertisements that violate the Truth in Lending Act (''TILA'') and Regulation Z.

Section 5 of the FTC Act prohibits false, misleading, or deceptive representations or omissions of material information in advertisements. In addition, Congress established statutory disclosure requirements for lease and credit advertisements under the CLA and the TILA, respectively, and directed the Federal Reserve Board to promulgate regulations implementing such statutes—Regulations M and Z respectively. See 15 U.S.C. 1667 *et seq;* 15 U.S.C. 1601 *et seq;* 12 CFR 213; 12 CFR 226.

I. The Complaints

A. FTC Act Violations

The Red Noland complaint alleges that, based on the terms prominently stated in their lease advertisements, including but not necessarily limited to the monthly payment amount, the downpayment, and the security deposit, respondent failed to disclose, and failed to disclose adequately, additional terms pertaining to the lease offer, such as the total amount due at lease inception, including but not limited to whether third-party fees such as taxes, licenses, and registration fees are required as part of the total amount due at lease inception. The Simmons Rockwell complaint alleges that, based on the terms prominently stated in their lease advertisements, including but not necessarily limited to the monthly payment amount, respondent failed to disclose, and/or failed to disclose adequately, additional terms pertaining to the lease offer, such as the total amount due at lease inception, including but not limited to whether third-party fees, such as taxes, licenses, and registration fees, are required as part of the total amount due at lease inception. The Red Noland and Simmons Rockwell complaints allege that the required information does not appear at all or appears in fine print and/or is illegible in the advertisements and that this information would be material to consumers in deciding whether to visit respondents' dealerships and/or whether to lease an automobile from respondents. These practices, according to both complaints, constitute deceptive acts or practices in violation of section 5(a) of the FTC Act.

B. CLA and Regulation M Violations

The Red Noland and Simmons Rockwell complaints also allege that respondents' lease advertisements have violated the CLA and Regulation M. The Red Noland complaint alleges that respondent's ads state the monthly payment amount, the downpayment, and the security deposit; the Simmons Rockwell complaint alleges that respondent's ads state the monthly payment amount—all ''triggering'' terms under these laws. The Red Noland and Simmons Rockwell complaints allege that respondents failed to disclose, and/or fail to disclose clearly and conspicuously, certain additional ''triggered'' terms, as applicable and as follows: The total amount due prior to or at consummation, or by delivery, if delivery occurs after consummation, and that such amount: (1) Excludes third-party fees, such as taxes, licenses and registration fees; and discloses that fact; or (2) includes third-party fees based on a particular state or locality and discloses that fact and the fact that such fees may vary by state or locality; whether or not a security deposit is required; and the number, amounts, and timing of scheduled payments.

According to the complaints, Red Noland's lease disclosures are omitted altogether and are not clear and conspicuous. Simmons Rockwell's lease disclosures, if provided, are not clear and conspicuous because they appear in fine print and/or are illegible.

The Red Noland and Simmons Rockwell complaints, therefore, allege that these practices violate section 184 of the CLA, 15 U.S.C. 1667c, as amended, and section 213.7 of Regulation M, 12 CFR 213.7, as amended.

In addition, the Red Noland complaint alleges that respondent's lease advertisements state specific lease rates for each of certain advertised vehicles, but fail to disclose, and fail to disclose clearly and conspicuously, the following notice concerning lease rates required by Regulation M: ''This percentage may not measure the overall cost of financing this lease.''

The Red Noland complaint, therefore, alleges that this practice violates section 213.4(s) of Regulation M, 12 CFR 213.4(s).

C. TILA and Regulation Z Violations

The Simmons Rockwell complaint alleges that respondent's credit advertisements have violated the TILA and Regulation Z. It alleges that respondent's credit ads state the number of payments required to finance the transaction and an annual percentage rate (expressed as an ''APR''), but failed to disclose, and/or failed to disclose clearly and conspicuously, certain additional terms required by Regulation Z, including the amount of the downpayment and the full terms of repayment, such as the amount of the monthly payment.

According to the complaint, Simmons Rockwell's credit disclosures, if provided, are not clear and conspicuous because they appear in blurred print.

The Simmons Rockwell complaint, therefore, alleges that these practices violate section 144 of the TILA, 15 U.S.C. 1664, as amended, and section 226.24(c) of Regulation Z, 12 CFR 226.24(c), as amended.

II. Proposed Consent Orders

The Red Noland and Simmons Rockwell proposed consent orders contain provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future. Specifically, Paragraph I.A. of the Red Noland and Simmons Rockwell proposed orders prohibit respondents, in any lease advertisement, from misrepresenting, in any manner, directly or by implication, the costs or terms of leasing a vehicle, including but not limited to the total amount due at lease signing or delivery.

Paragraph I.B. of the Red Noland and Simmons Rockwell proposed orders prohibit respondents, in any lease advertisement, from making any reference to any charge that is part of the total amount due at lease signing or delivery or that no such charge is required, not including a statement of the periodic payment, unless the advertisement also states with ''equal prominence'' the total amount due at lease signing or delivery. The ''prominence'' requirement prohibits respondents from running deceptive advertisements that highlight low amounts due at lease inception with inadequate disclosure of the actual total lease inception fees. This ''prominence'' requirement for lease inception fees is also found in Regulation M.

Paragraph I.C. of the Red Noland and Simmons Rockwell proposed orders prohibit respondents, in any lease, from stating the amount of any payment or that any or no initial payment is required at lease signing or delivery, unless the advertisement also states, clearly and conspicuously, all of the terms required by Regulation M, as amended and as follows: (1) That the transaction advertised is a lease; (2) the total amount due at lease signing or delivery; (3) whether or not a security deposit is required; (4) the number, amounts, and timing of scheduled payments; and (5) that an extra charge may be imposed at the end of the lease term in a lease in which the liability of the consumer at the end of the lease term is based on the anticipated residual value of the vehicle.

Furthermore, Paragraph I.D. of the Red Noland proposed order prohibits this respondent from stating a percentage rate in an advertisement or in documents evidencing the lease transaction, unless respondent also states the notice required by Regulation M that ''this percentage may not measure the overall cost of financing this lease.''

Paragraph I.D. of the Simmons Rockwell proposed order, and paragraph I.E. of the Red Noland proposed order, prohibit respondents from engaging in any other violation of Regulation M, as amended.

In addition, Paragraph II. A. of the Simmons Rockwell proposed order enjoins respondent, in any credit advertisement, from stating the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without disclosing, clearly and conspicuously, all of the terms required by Regulation Z, as follows: (1) The amount or percentage of the downpayment; (2) the terms of repayment; and (3) annual percentage rate, using that term or the abbreviation ''APR.'' If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed. Paragraph II.B. of this proposed order also prohibits Simmons Rockwell from stating a rate of finance charge unless respondents state the rate as an ''annual percentage rate'' or the abbreviation ''APR,'' using that term. Paragraph III.C. of this proposed order also enjoins Simmons Rockwell from engaging in any other violation of Regulation Z, as amended.

The information required by Paragraph I of the Red Noland proposed order (lease advertisements), and Paragraphs I and II of the Simmons Rockwell proposed order (lease and credit advertisements), must be disclosed ''clearly and conspicuously.'' Both proposed orders define the term ''clearly and conspicuously'' for Red Noland's and Simmons Rockwell's advertisements in all media. In a television, video, radio or Internet or other electronic advertisement, the required disclosures made in the audio portion of the advertisement must be delivered in a volume, cadence, and location sufficient for an ordinary consumer to hear and comprehend. The required disclosures in the video portion of the advertisement must be of a size and shade, and must appear on the screen for a duration and in a location, sufficient for an ordinary consumer to read and comprehend. In a print advertisement, the required disclosures must be in a type size and location sufficient for an ordinary consumer to read and comprehend, in print that contrasts with the background against which it appears. Additionally, the required disclosures must be in understandable language and syntax. Further, nothing contrary to, inconsistent with, or in mitigation of the required disclosures shall be used in any advertisement.

The purpose of this analysis is a facilitate public comment on the proposed orders. It is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–11311 Filed 5–4–00; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 992 3026]

Santa Fe Natural Tobacco Company, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 30, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Ostheimer, FTC/S–4002, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–2699.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 27, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rule of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Santa Fe Natural Tobacco Company, Inc. (''Santa Fe'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt for comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves an alleged misleading representation for Natural American Spirit cigarettes, which Santa Fe has advertised as containing no additives. According to the FTC complaint, through these advertisements, Santa Fe represented that because Natural American Spirit cigarettes contain no additives, smoking them is less hazardous to a smoker's health than smoking otherwise comparable cigarettes that contain additives. The complaint alleges that Santa Fe did not have a reasonable basis for the representation at the time it was made. Among other reasons, according to the complaint, the smoke from Natural American Spirit cigarettes, like the smoke from all cigarettes, contains numerous carcinogens and toxins, including tar and carbon monoxide.[1]

The proposed consent order contains provisions designed to prevent Santa Fe engaging in similar acts and practices in the future.

Part I of the order requires Santa Fe to include the following disclosure, clearly and prominently, in certain advertising for its tobacco cigarettes: ''No additives in our tobacco does NOT mean a safer cigarette.'' (The order requires a similar disclosure in advertising for other tobacco products Santa Fe advertises as having no additives.) The disclosure must be included in all tobacco advertising that represents (through such phrases as ''no additives'' or ''100% tobacco'') that the product has no additives. This Part exempts Santa Fe from the disclosure requirement: (1) For cigarette advertisements not required to bear the Surgeon General's health warning; and (2) if Santa Fe possesses scientific evidence demonstrating that its ''no additives'' cigarette poses materially lower health risks than other cigarettes of the same type. In general, the disclosure required by Part I must be in the same type size and style as the Surgeon General's warning and must appear within a rectangular box that is no less than 40% of the size of the box containing the Surgeon General's warning.

Part II of the order requires Santa Fe to include the following disclosure, clearly and prominently, in advertising and on packaging for herbal cigarettes: ''Herbal cigarettes are dangerous to your health. They produce tar and carbon monoxide.'' (The order requires a similar disclosure for other herbal smoking products.) The disclosure must be included in all advertising and on packaging for herbal smoking products that represent (through such phrases as ''no tobacco,'' ''tobacco-free,'' or ''herbal'') that the product has no tobacco. This Part also contains an exemption from the disclosure requirement if Santa Fe possesses scientific evidence demonstrating that such herbal smoking products do not pose any material health risks. In general, the disclosure required by Part II must be in the same type size and style as the Surgeon General's warning and for advertisements must appear within a rectangular box that is the same size as the box containing the Surgeon General's warning.

Part III requires Santa Fe to send a letter to its purchasers for resale notifying them that they should discontinue the use of certain existing Natural American Spirit cigarette advertisements and promotional materials and that Santa Fe is required to stop doing business with purchasers for resale that do not comply with this request.

Parts IV–VIII of the order require Santa Fe to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain of its personnel; to notify the Commission of changes in the composition or formula of Natural American Spirit cigarettes that may affect the order; to notify the Commission of changes in corporate structure; and to file compliance reports with the Commission. Part IX provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–11313 Filed 5–4–00; 8:45 am]

BILLING CODE 6750–01–M

[1] In late 1997, Santa Fe voluntarily did begin placing the statement, ''To our knowledge there is no research indicating cigarettes containing additive-free tobacco are safer than cigarettes with tobacco containing additives'' in certain ads for Natural American Spirit tobacco cigarettes. Since early 1998, Santa Fe has also included the statement ''We make no representation expressed or implied that these cigarettes are any less hazardous than any other cigarettes'' on the packaging of Natural American Spirit cigarettes.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–29–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

1. Public Health Prevention Service Program—New—Epidemiology Program Office (EPO). In 1995, senior CDC leadership asked for a review of CDC's role in developing public health workers. As a result of the review, the Public Health Prevention Service (PHPS) program was established in 1997, to be carried out by the Epidemiology Program Office (EPO). The purpose of the PHPS program is to improve the nation's public health practice by preparing entry-level public health professionals to conduct prevention programs that improve health and prevent injury and to manage emerging public health problems.

Implicit in the creation of the program is the expectation that the PHPS participants would be a new breed of public health professional who would owe primary allegiance to prevention and public health as disciplines rather than to specific programs, be comfortable working across a variety of programs and in multiple levels of jurisdictions, and be knowledgeable about and prepared to meet future challenges in public health in planning, implementing, managing, and evaluating scientifically sound prevention programs and interventions.

PHPS participants (Prevention Specialists) are selected annually in a national competition. Each year, approximately 25 PHPS participants are chosen from a pool of about 100 applicants. During their 3-year participation they undertake formal training, engage in a series of rotations throughout CDC and, finally, are posted to 2-year assignments with health

departments at the state, county, or local level. Throughout the off-site portion of the program, they are intended to participate in scheduled training through periodic on-site sessions at CDC as well as through distance learning. At the conclusion of the three years, they are available for employment in any setting.

Data are needed to determine if the PHPS program is meeting its goals, including: (1) Broad exposure to multiple disciplines and levels of government, (2) exposure to important management and leadership skills, and (3) contribution to the creation of a pool of qualified leaders who will remain in and rise rapidly to leadership in public health at Federal, state, and local levels. In addition, data are needed to monitor the implementation of the program and allow for continuous improvement of processes.

While surveys and focus groups are being conducted with the PHPS participants and their CDC supervisors throughout the course of their 3-year participation, these data need to be supplemented with information from others including: (1) Graduates of the PHPS program: to determine if they are assuming leadership roles in public health and the aspects of the PHPS program that proved most helpful, (2) local health department staff who supervise PHPS participants during their field assignments: to determine if the PHPS participants are exhibiting the level of skills imparted during their training period and are adding value to state and local public health efforts, and (3) those who are offered PHPS positions but choose not to participate: to determine how to make the program more attractive and to enable the program to improve marketing, application, and selection processes.

Results from this research will be used to help CDC identify ways in which the PHPS program can be enhanced and its processes improved. More importantly, it will allow CDC to assess whether the PHPS program is an effective mechanism for creating a pool of broadly-trained public health leaders.

The PHPS program will track participants, graduates, and their supervisors and employers for a period of 10 years. This request covers the first three years only. The total burden hours averages approximately 55 hours per year.

Respondents	No. of respondents	Responses/ respondent	Avg. burden/ response (in hrs.)
Year 1			
Candidates:			
Inquiring but not applying	60	1	.25
Offered, but declining interviews	10	1	.25
Interviewed but not offered PHPS slots	30	1	.25
Offered PHPS slots but not accepting	10	1	.25
Supervisors:			
Of agencies requesting but not receiving a PHPS assignee	30	1	.1667
Of field assignments	50	1	.25
Of post-PHPS permanent employment [1]	0	1	.1667
PHPS participants:			
Graduating from the program [1]	0	1.	.25
Year 2			
Candidates:			
Inquiring but not applying	60	1	.25
Offered, but declining interviews	10	1	.25
Interviewed but not offered PHPS slots	30	1	.25
Offered but declining PHPS participation	10	1	.25
Supervisors:			
Of agencies requesting but not receiving a PHPS assignee	30	1	.1667
Of field assignments	50	1	.25
For post PHPS permanent employment [1]	25	1	.1667
PHPS participants:			
Graduating from the program [1]	25	1	.25
Year 3			
Candidates:			
Inquiring but not applying	60	1	.25
Offered, but declined interviews	10	1	.25
Interviewed but not offered PHPS			
Slots	30	1	.25
Offered PHPS slots but not accepting	10	1	.25
Supervisors:			
Of agencies requesting but not receiving a PHPS assignee	30	1	.1667
Of field assignments	50	1	.25
Of post-PHPS permanent employment [1]	50	1	.1667
PHPS participants:			
Graduating from the program [1]	50	1	.25

[1] PHPS is a three year program enrolling 25 new participants each year. First class will graduate in Year 2 of this data collection; 25 new graduates will be added to the pool of graduates each year thereafter.

Dated: May 1, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–11232 Filed 5–4–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–26–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. PHS Supplements to the Application for Federal Assistance—SF 424 (0920–0428)—Extension—The Centers for Disease Control and Prevention (CDC) is requesting a three-year extension for continued use of the Supplements to the Request for Federal Assistance Application (SF–424). The Checklist, Program Narrative, and the Public Health System Impact Statement (third party notification) (PHSIS) are a part of the standard application for State and local governments and for private non-profit and for-profit organizations when applying for financial assistance from PHS grant programs. The Checklist assists applicants to ensure that they have included all required information necessary to process the application. The Checklist data helps to reduce the time required to process and review grant applications, expediting the issuance of grant awards. The PHSIS Third Party Notification Form is used to inform State and local health agencies of community-based proposals submitted by non-governmental applicants for Federal funding. We also requesting the use of a new CDC form (CDC 0.1113) to be used once an award is granted. This form will provide CDC specific assurances after an award is granted. Total annual hours burden are 31,204.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hrs.)
Program Narrative & Checklist	6,343	1	4
CDC Form 0.0126 (E)	990	1	4
CDC Form 0.1113	1,000	1	30/60
Public Health Impact Statement (PHSIS)	2,845	2.5	10/60
SSA (SAMHSA)	1,125	1	10/60

Dated: May 1, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–11233 Filed 5–4–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Annual Survey of Refugees.

OMB No.: 0970–0033.

Description: The Annual Survey of Refugees is conducted each Fall by a contractor. Approximately 2,000 refugee families are interviewed via telephone with questions relating to employment, English language skills and training, occupational training, education, and welfare utilization.

Respondents: Individuals or Households.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response (minutes)	Total burden hours
Annual Survey of Refugees	2,000	1	40	1,350

Estimated Total Annual Burden Hours: 1,350.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 1, 2000.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 00–11250 Filed 5–4–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Low Income Home Energy Assistance Program (LIHEAP) Leveraging Report.

OMB No.: 0970–0121.

Description: The LIHEAP leveraging incentive program rewards LIHEAP grantees that have leveraged nonfederal home energy resources for low income households. The LIHEAP leveraging report is the application for leveraging incentive funds that these LIHEAP grantees submit to HHS for each fiscal year in which they leverage countable resources. Participation in the leveraging incentive program is voluntary. The Leveraging report obtains information on the resources leveraged by LIHEAP grantees each fiscal year (as cash, discounts, waivers, and in-kind); the benefits provided to low income households by these resources (for example, as fuel and payments for fuel, as home heating and cooling equipment, and is weatherization materials and installation); and the fair market value of these resource/benefits. HHS needs this information in order to carry out statutory requirements for administering the LIHEAP leveraging incentive program, to determine countability and valuation of grantees' leveraged nonfederal home energy resources, and to determine grantees' shares of leveraging incentive funds. HHS proposes to request a 3-year extension of OMB approval for the currently approved LIHEAP leveraging report information collection.

Respondents: State and Tribal Governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
LIHEAP leveraging Report	70	1	38	2,660
Estimated total annual burden hours				2,660

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: May 1, 2000

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 00–11189 Filed 5–4–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Family Assistance; Statement of Organization, Functions and Delegation of Authority; Correction

AGENCY: Office of Family Assistance (OFA)/ACF/DHHS.

ACTION: Notice; correction.

SUMMARY: This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration of Children and Families (ACF) as follows: Chapter KH, The Office of Family Assistance (OFA) (65 FR 8980), as last amended in the **Federal Register** on February 23, 2000. This notice reflects the correction of an administrative code given in OFA's new structure for the Division of TANF Information Network listed on page 8981, the first column, in the notice issued February 23, 2000.

Delete KH.10 Organization in its entirety and replace with the following:

KH.10 Organization. The Office of Family Assistance is headed by a Director, who reports to the Assistant Secretary for Children and Families. The office is organized as follows:

Office of the Director (KHA)
Division of Policy and Program Development (KHB)
Division of Technical Assistance and Training (KHC)
Division of TANF Information Network (KHG)

FOR FURTHER INFORMATION CONTACT: Contact Glenda D. Harden at 202–401–5623.

Dated: May 1, 2000.

Alvin C. Collins,

Director, Office of Family Assistance.

[FR Doc. 00–11257 Filed 5–4–00; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1262]

Improving Premarket Review and Approval of Food and Color Additives in the Center for Food Safety and Applied Nutrition; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting public comment on ways to improve the process of premarket review and approval of food and color additive petitions by FDA's Center for Food Safety and Applied Nutrition (CFSAN). CFSAN received substantial new resources for fiscal year 2000 targeted to the premarket review of petitions for approval of new uses of food and color additives. This document is being

published to give all interested parties an opportunity to comment on how these new resources may best be applied to address public health issues related to the timely approval and safe use of food and color additives. CFSAN will consider administrative and procedural enhancements to ensure that program goals are met while maintaining high standards of safety and scientific credibility.

DATES: Submit written comments by July 19, 2000.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Alan M. Rulis, Center for Food Safety and Applied Nutrition (HFS–200), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3100, e-mail: arulis@cfsan.fda.gov.

SUPPLEMENTARY INFORMATION: The Office of Premarket Approval (OPA) in CFSAN manages the following programs: Petitions for new uses of food and color additives, consultations on foods developed using new methods of biotechnology, generally recognized as safe (GRAS) notices, threshold of regulation (TOR) exemption requests, and premarket notifications for food contact substances (PMN). In addition to these programs, OPA is the lead technical authority for food additives for the U.S. Government. OPA provides expertise and leadership in the international forums of the Joint Food Agricultural Organization (FAO)/World Health Organization (WHO) Expert Committee on Food Additives, the North American Free Trade Agreement, and the Codex Alimentarius Commission to define international standards, promote harmonization, and evaluate equivalency agreements for food additives and other food ingredients. OPA also has laboratory research and sample analysis components that provide technical support for the enforcement of the food additive regulations.

The current process of reviewing food and color additive petitions has evolved over 40 years since the passage of the 1958 Food Additives Amendment to the Federal Food, Drug, and Cosmetic Act (the act). Approvals of food and color additives have been based on a critical scientific evaluation of safety information submitted by petitioners. The primary components of this evaluation are the review of chemical, toxicological, and environmental scientific data and information and an estimation of the probable human dietary exposure to additives. During its review of safety of new food additive uses, OPA develops an administrative record that relies on scientific data and information to support the agency's safety conclusions. Although this framework has a high level of scientific credibility, CFSAN recognizes that improvements could be made to ensure that the process is more efficient while maintaining the current high scientific standards. With this notice, CFSAN is soliciting comments on ways to improve the timeliness, transparency, and predictability of its review of food and color additive petitions, and its monitoring of the safety of food and color additives over time.

To help focus comments, FDA requests that comments regarding food and color additive review address the following:

1. The act requires that the agency base its safety decisions for the premarket review of additives on ''a fair evaluation of the data'' and requires that new uses of food additives be consistent with the agency safety standard of ''reasonable certainty of no harm.'' What specific changes can be made to the current review process to make that process more efficient, i.e., transparent, timely, responsive, and predictable, while preserving these high standards of data review and of safety?

2. On January 5, 1999 (64 FR 517), CFSAN made available a guidance describing a policy to expedite the review of petitions for food additives that are intended to significantly decrease human pathogens or their toxins in/on food. Should the Center consider broadening the criteria for eligibility for such expedited petition review? If so, petitions for what types of uses should be added?

3. How should the increased appropriation to CFSAN that is targeted for the safety review of food and color additives be allocated? For example, to what extent should new resources be allocated to: (1) Performing prefiling consultations with prospective applicants for new uses of food ingredients, (2) adding personnel resources to the review process, (3) enhancing electronic data management systems such as automated workflow management or data warehousing, and (4) acquiring or monitoring new safety information on already approved additives?

4. What specific program enhancements should be given the highest priority?

Interested persons may, on or before July 19, 2000, submit to the Dockets Management Branch (address above) written comments regarding this document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 28, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–11331 Filed 5–4–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oxytetracycline in Shrimp; Availability of Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of human food safety data that may be used in support of a new animal drug application (NADA) or supplemental NADA for the treatment of shrimp with oxytetracycline via medicated feed for bacterial infections. The data, contained in Public Master File (PMF) 5662, were compiled by FDA, Center for Veterinary Medicine (CVM), Office of Research (OR).

ADDRESSES: Submit NADA's or supplemental NADA's to the Document Control Unit (HFV–199), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Copies of the analytical methods used to analyze the feed and tissue samples used in this study are available from the Center for Veterinary Medicine, Office of Research, 8401 Muirkirk Rd., Laurel, MD 20708.

FOR FURTHER INFORMATION CONTACT: Julia A. Oriani, Center for Veterinary Medicine (HFV–151), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6976.

SUPPLEMENTARY INFORMATION: Oxytetracycline used for the treatment of bacterial infections in shrimp is a new animal drug under section 201(v) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(v)). As a new animal drug, oxytetracycline is subject to section 512 of the act (21 U.S.C. 360b), requiring that its use in shrimp be the subject of an approved NADA or supplemental NADA. Shrimp are a minor species under 21 CFR 514.1(d)(1)(ii).

The OR and a researcher from the University of Arizona have provided human food safety data for the use of oxytetracycline in shrimp. The OR provided analytical support to complete a tissue residue depletion study conducted by the researcher from the University of Arizona for oxytetracycline in shrimp. The University of Arizona researcher directed the in-life portion of the study. Juvenile Pacific shrimp, *Penaeus vannamei*, were fed 3.4 grams oxytetracycline/kilogram feed for 14 days and then sampled at 0, 12, 24, 36, 48, 72, and 96 hours after treatment.

Feed and tissue samples were sent to the OR laboratory for analysis. The OR analyzed the feed samples by the regulatory high performance liquid chromatography (HPLC) method entitled ''Determination of Oxytetracycline in Milk Replacer (FDA/CVM, Revision 1.2, April 1, 1998).'' The tissue samples were analyzed by a 1997 version of the regulatory HPLC method for determining oxytetracycline residues in shrimp. While validating the method prior to analyzing the test samples, the OR found that the 1997 method should be revised to emphasize complete collection of the aqueous phase during extraction. The revised regulatory method for analysis of oxytetracycline in shrimp is entitled ''Method for the Determination of Oxytetracycline Residues in Uncooked Shrimp Using High Performance Liquid Chromatography,'' by Steven W. Hadley, Susan K. Braun, and Marleen M. Wekell, FDA, Office of Regulatory Affairs, Division of Field Science, Seafood Products Research Center, December 23, 1999.

At 0 hours withdrawal, oxytetracycline tissue levels ranged from 3.2 to 5.6 parts per million (ppm); at 12 hours, 1.5 to 4.1 ppm; at 24 hours, 1.5 to 2.1 ppm; at 36 hours, 1.2 to 2.0 ppm; at 48 hours, 0.31 to 0.64 ppm; and at 72 hours, <0.25 ppm. The 96-hour samples were not analyzed because residues were below the lowest point on the standard curve by 72 hours withdrawal.

Data and information on human food safety are contained in PMF 5662. Sponsors of NADA's or supplemental NADA's may, without further authorization, reference the PMF to support approval of an application filed under 21 CFR 514.1(d). An NADA or supplemental NADA must include, in addition to reference to the PMF: Effectiveness data, target animal safety data, animal drug labeling, and other information needed for approval. Other information needed for approval may include data supporting extrapolation from a major species in which the drug is currently approved or authorized reference to such data; data concerning manufacturing methods, facilities, and control; and information addressing potential environmental impacts of the manufacturing process. Persons desiring more information concerning the PMF or requirements for approval of an NADA or supplement may contact Julia A. Oriani (address above).

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information provided in this PMF to support approval of an application may, upon approval of such application, be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 28, 2000.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 00–11329 Filed 5–4–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Transmissible Spongiform Encephalopathies (TSE) Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Transmissible Spongiform Encephalopathies (TSE) Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 1, 2000, 8:30 a.m. to 5:30 p.m. and on June 2, 2000, 8:30 a.m. to 3:30 p.m.

Location: Holiday Inn, Ballroom II, Montgomery Village Ave., Gaithersburg, MD.

Contact Person: William Freas, or Sheila D. Langford, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448; 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12392. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 1, 2000, the committee will discuss policies for deferral of blood and plasma donors because of their possible exposure to the agent of bovine spongiform encephalopathy (BSE). On June 2, 2000, the committee will discuss the scientific merit of leukoreduction as a method to reduce the theoretical risk of Creutzfeldt-Jakob Disease (CJD) and/or new variant CJD (nvCJD) in blood and blood components for transfusions as well as plasma for manufacture into derivatives. In the afternoon, the committee will receive an update on the regulatory status of human dura mater.

Procedure: On June 1, 2000, from 8:30 a.m. to 5 p.m. and June 2, 2000, from 8:30 a.m. to 3:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 15, 2000. Oral presentations from the public will be scheduled between approximately 8:30 a.m. to 9 a.m., and 1 p.m. to 1:30 p.m. on June 1, 2000, and between 8:30 a.m. to 9 a.m. and 1 p.m. to 1:30 p.m. on June 2, 2000. Time allotted for each presentation may be limited. These desiring to make formal oral presentations should notify the contact person before May 22, 2000, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On June 1, 2000, from 5 p.m. to 5:30 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). This portion of the meeting will be closed to permit discussion of this material.

Notice of this is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 21, 2000.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 00–11200 Filed 5–4–00; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1266]

Report to Congress on Pediatric Exclusivity; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is requesting comments on the pediatric exclusivity program established by the Food and Drug Administration Modernization Act of 1997 (the Modernization Act). This action is being taken to assist the agency in preparing a report to Congress on

pediatric exclusivity as required by the Federal Food, Drug, and Cosmetic Act (the act). FDA is seeking public input on the pediatric exclusivity program.

DATES: Submit written comments on the pediatric exclusivity program by June 5, 2000.

ADDRESSES: Submit written comments on the pediatric exclusivity program to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Copies of this notice are available on the Internet at http://www.fda.gov/cder/pediatrics.

FOR FURTHER INFORMATION CONTACT:

Terrie L. Crescenzi, Center for Drug Evaluation and Research (HFD–104), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–7337, FAX 301–827–2520, e-mail: crescenzit@cder.fda.gov, or

Elaine C. Esber, Center for Biologics Evaluation and Research (HFM–30), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0641, FAX 301–827–0644, e-mail: esber@cber.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is seeking public comment on the pediatric exclusivity program. Section 111 of the Modernization Act (Public Law 105–115), signed into law by President Clinton on November 21, 1997, created section 505A of the act (21 U.S.C. 355a). Section 505A of the act permits certain new drug applications to obtain an additional 6 months of marketing exclusivity if, in accordance with the requirements of the statute, the sponsor submits information relating to the use of the drug in the pediatric population.

Under section 505A(k) of the act, FDA must submit a report to Congress on the pediatric exclusivity program.

II. Description of the Report

Under section 505A(k) of the act, FDA must conduct a study and report to Congress not later than January 1, 2001, on the experience under the pediatric exclusivity provisions of the act. The study and report must examine all relevant issues, including:

1. The effectiveness of the program in improving information about important pediatric uses for approved drugs;

2. The adequacy of the pediatric exclusivity incentive;

3. The economic impact of the pediatric exclusivity program on taxpayers and consumers and the impact of the lack of lower cost generic drugs on patients, including on lower income patients; and

4. Any suggestions for modification.

III. Request for Comments

FDA invites all interested parties to address the specific topics that will be included in the report or any other general issue appropriate for this report relevant to the pediatric exclusivity provision of the act. Interested persons may submit to the Dockets Management Branch (address above) written comments on the pediatric exclusivity program by June 5, 2000. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 28, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–11328 Filed 5–4–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–462A/B]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Clinical Laboratory Improvement Amendments (CLIA) Adverse Action Extract and Supporting Regulations at 42 CFR 483.1840; *Form No.:* HCFA–462A/B (OMB 0938–0655; *Use:* The CLIA Adverse Action Extract will be used by HCFA surveyors (State health department, and other HCFA agents) to report to regional staff and record the adverse actions imposed against a laboratory. The form will also serve to track dates of the imposition of adverse actions, date on which a laboratory corrects deficiencies, and all appeals activity; *Frequency:* On occasion, Biennially; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 52; *Total Annual Responses:* 1573; *Total Annual Hours:* 786.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 26, 2000.

John P. Burke III,

Reports Clearance Officer, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–11215 Filed 5–4–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1957]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and

Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: SSO Report of State Buy In Problems and Supporting Regulations in 42 CFR 407.40;

Form No.: HCFA–1957 (0938–0035);

Use: The HCFA–1957 is issued to assist with communications between the Social Security District Offices, Medicaid State Agencies and HCFA Central Offices in the resolution of beneficiary complaints, regarding entitlement under state buy-ins. It is used when a problem arises which cannot be resolved thru normal data exchange.

Frequency: On occasion;

Affected Public: State, Local or Tribal Government, and Individuals or Households;

Number of Respondents: 2,000;

Total Annual Responses: 2,000;

Total Annual Hours: 716.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: April 10, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–11216 Filed 5–4–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

White House Initiative on Asian Americans and Pacific Islanders President's Advisory Commission; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of May 2000.

Name: President's Advisory Commission on Asian Americans and Pacific Islanders.

Date and Time: May 17, 2000; 9:00 a.m.–5:00 p.m. and May 19, 2000; 9:00 a.m.–5:00 p.m.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW, Washington, D.C. 20201.

The meetings are open to the public.

The President's Advisory Commission will have its inaugural meeting on May 17, from 9:00 a.m.–5:00 p.m. and subsequent meeting on May 19, from 9:00 a.m.–5:00 p.m. The purpose of the Commission is to advise the President on the issues facing Asian Americans and Pacific Islanders (AAPIs). The President's Advisory Commission on AAPIs will be seated through June 7, 2001. Agenda items will include, but will not be limited to: orientation; rolls and responsibilities of Commissioners; updates on the activities of the White House Initiative on AAPIs; and discussion of future Commission activities. Agenda items are subject to change as priorities dictate.

Requests to address the Commission should be made in writing and should include the name, address, telephone number and business or professional affiliation of the interested party. Individuals or groups addressing similar issues are encouraged to combine comments and present through a single representative. The allocation of time for remarks may be adjusted to accommodate the level of expressed interest. Written requests should be faxed to (301) 443–0259. Anyone who has interest in attending any portion of the meeting or who requires additional information about the Commission should contact: Mr. Tyson Nakashima, Office of the White House Initiative on AAPIs, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–2492. Anyone who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mr. Nakashima no later than May 10, 2000.

Dated: May 3, 2000.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–11449 Filed 5–4–00; 8:45 am]

BILLING CODE 4160–15–p

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 2000.

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: June 7, 2000; 9 a.m.–5 p.m.

Place: Parklawn Building, Conference Rooms G & H, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

The full Commission will meet on Wednesday, June 7, from 9 a.m. to 5 p.m. Agenda items will include, but not be limited to: a presentation on Aluminum in Vaccines, a presentation on recent General Accounting Office Reports on the Vaccine Injury Compensation Program, a report on Vaccination and Autism, updates from the Department of Justice and the National Vaccine Program Office, and routine program reports.

Public comment will be permitted before lunch and at the end of the Commission meeting on June 7, 2000. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Ms. Shelia Tibbs, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–1896. Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest.

The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but desire to make an oral statement, may sign-up in Conference Rooms G and H on June 7, 2000. These persons will be allocated time as time permits.

Anyone requiring information regarding the Commission should contact Ms. Tibbs, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1896.

Agenda items are subject to change as priorities dictate.

Dated: May 1, 2000.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–11251 Filed 5–4–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request: Enhancing Access and Measuring the Effectiveness of HIV/AIDS Information Methods

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Library of Medicine (NLM), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Enhancing Access and Measuring the Effectiveness of HIV/AIDS Information Methods. *Type of Information Collection Request:* New, *Need and Use of Information Collection:* This study will assess the effectiveness of three information sources within the African American Community in disseminating HIV prevention information. HIV infection and the dissemination of prevention information is a major public health task in North Florida. Three types of African American communities from Gadsden, Leon, and Duval counties have been selected as the sites of this study. This includes communities with rural, mixed rural/urban, and urban areas represented for assessing possible differences in health information channel preferences. This study will add to the body of knowledge concerning HIV information dissemination to African American communities in two ways: first, by assessing whether there are differences in the preferred health information channels of those living in rural, mixed, and urban areas, and secondly, by assessing three information dissemination channels for communicating HIV issues to African American communities. The three information channels of concern in this study are community newsletters, entertainment education, and church ministries. In the first year of the project, a brief survey will be conducted before and after distribution of the community newsletter to assess how the community obtains information about the prevention of HIV infection and transmission, their preferred sources of health information, and the effectiveness of the newsletter. The initial data collected will be used to establish a baseline for the project against which the subsequent project data can be evaluated

Frequency of Response: On occasion. *Affected Public:* Individuals or households. *Type of Respondents:* Residents living in Duval, Gadsden and Leon counties, Florida. The annual reporting burden is as follows: *Estimated Number of Respondents:* 450; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* .167; and *Estimated Total Annual Burden Hours Requested:* 75. The annualized cost to respondents is estimated at: $1,082. There are no Capital Costs to report. there are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, include the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms. Gale Dutcher, Special Assistant to the Associate Director, Division of Specialized Information Services, National Library of Medicine, Building 38A, Room 3S317, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll-free number (301) 496–3147 or E-mail your request, including your address to: *gd21d@nih.gov.*

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before July 5, 2000.

Dated: April 24, 2000.

Donald C. Poppke,

Associate Director for Administrative Management, National Library of Medicine.

[FR Doc. 00–11214 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center For Research Resources; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open the public as indicate below, with attendance limited to space available. Individual who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclose of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.

Date: May 22-24, 2000.

Open: May 22, 2000, 8 a.m. to 9 a.m.

Agenda: To discuss program planning and other issues.

Place: Gaithersburg Hilton Hotel, 620 Perry Parkway, Gaithersburg, MD 20877.

Closed: May 22, 2000, 9 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: D.G. Patel, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0824.

Name of Committee: National Center for Research Resource Special Emphasis Panel Science Education Partnership Award.

Date: June 7–8, 2000.

Closed: June 7, 2000 8 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Sybil A. Wellstood, PhD, Scientific Review Administrator, Office of Review, National Center for Research Rources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0814.

Name of Committee: National Center for Research Resource Initial Review Group Comparative Medicine Review Committee.

Date: June 13–14, 2000.

Open: June 13, 2000, 8 a.m. to 9 a.m.

Agenda: To discuss program planning and program accomplishments.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Closed: June 13, 2000, 9:00 a.m. to Adjourmnemt.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John D. Harding, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, (301) 435–0810.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research; 93.333, 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: April 27, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–11210 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Sickle Cell Disease Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sickle Cell Disease Advisory Committee.

Date: June 5, 2000.

Time: 9 a.m. to 5 p.m.

Agenda: Discussion of program policies and issues.

Place: National Institutes of Health, Two Rockledge Center, Suite 9104, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Charles M. Peterson, MD, Director, Blood Diseases Program, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, NIH, Two Rockledge Center, Room 10158, MSC 7950, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0050.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Disease and Resources Research, National Institutes of Health, HHS)

Dated: April 26, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–11204 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute of clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Program Project Review Committee.

Date: June 15, 2000.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Jeffrey H. Hurst, PhD, Scientific Review Administrator, Review Branch, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7208, Bethesda, MD 20892, 301/435–0303.

Name of Committee: Clinical Trials Review Committee.

Date: June 25–27, 2000.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Joyce A. Hunter, PhD, NHLBI/DEA/Review Branch, Rockledge Building II, Room 7192, MSC 7924, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–0287.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 26, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–11205 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute of clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: May 3, 2000.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Natcher Bldg, Rm 5As.25u, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Tommy L. Broadwater, Phd, Chief, Grants Review Branch, National Institutes of Health, NIAMS, Natcher Bldg., Room 5As25U, Bethesda, MD 20892, 301–594–4952.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 26, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–11206 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Malaria Vaccine Production and Support Services.

Date: May 26, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Georgetown, Fortune Room, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Anna Ramsey-Ewing, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2220, 6700-B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, 301 496–2550, ar15o@nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 26, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–11207 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute of clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: May 24, 2000.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: AFTAB A. ANSARI, Phd, National Institutes of Health, NIAMS, Bethesda, MD 20892, 301–594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 27, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–11208 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute of clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: May 23, 2000.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Fred Altman, Phd, Scientific Review Administrator, National Institutes of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6220, MSC 9621, Bethesda, MD 20892–9621, 301–443–8962.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: June 27–29, 2000.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, Conference Center, One Washington Circle, Washington, DC 20037

Contact Person: Lawrence E. Chaitkin, Phd, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd Room 6138, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: April 27, 2000.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–11209 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–7 (M5) M.

Date: May 4, 2000.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, NIDDK/DEA/Review Branch, 2 Democracy Boulevard, 6707 Democracy Boulevard, MSC 5452, Room# 659, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD., Scientific Review Administration, Review Branch, DEA, NIDDK, Room 659, 6707, Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600 (301) 594–7799.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–1 (M5).

Date: May 10, 2000.

Time: 10:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: 6707 Democracy Blv, Two Democracy Plaza, 6th Floor, Room 641, MSC 5452, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carolyn Miles, PhD., Scientific Review Administration, Review Branch, DEA, NIDDK, Room 641, 6707, Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 28, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–11211 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given to meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: May 31–June 1, 2000.

Open: May 31, 2000, 8:30 a.m. to 12 p.m.

Agenda: Present the Director's Report and other scientific presentations.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Closed: May 31, 2000, 2:30 p.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Closed: June 1, 2000, 9:45 a.m. to 10:15 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Open: June 1, 2000, 10:15 a.m. to 12 p.m.

Agenda: To present the Director's Report and other scientific presentations.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Walter S. Stolz, PhD, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Digestive Diseases and Nutrition Subcommittee.

Date: May 31–June 1, 2000.

Open: May 31, 2000, 1:30 p.m. to 2:30 p.m.

Agenda: Review of the Division's scientific and planning activities.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Closed: May 31, 2000, 2:30 p.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Closed: June 1, 2000, 8 a.m. to 9:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Contact Person: Walter S. Stolz, PhD, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Kidney, Urologic and Hematologic Diseases Subcommittee.

Date: May 31–June 1, 2000.

Open: May 31, 2000 1:30 p.m. to 2:30 p.m.

Agenda: Review of the Division's scientific and planning activities.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 7.

Closed: May 31, 2000, 2:30 p.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 7.

Closed: June 1, 2000, 8 a.m. to 9:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 7.

Contact Person: Walter S. Stolz, PhD, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Diabetes, Endocrine and Metabolic Diseases Subcommittee.

Date: May 31–June 1, 2000.

Open: May 31, 2000, 1:30 p.m. to 2:30 p.m.

Agenda: Review of the Division's scientific and planning activities.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Closed: May 31, 2000, 2:30 PM to adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Closed: June 1, 2000, 8 a.m. to 9:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Walter S. Stolz, PhD, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases,Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 28, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–11212 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasions of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group Neurological Sciences and Disorders C.

Date: June 12–13, 2000.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Madison Hotel, Fifteenth & M Streets NW, Washington, DC 20005.

Contact Person: Alan L Willard, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, SUITE 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 28, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–11213 Filed 5–4–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. CFDA 93.576]

Notice of Availability of FY 2000 Discretionary Funds for Refugee Community and Family Strengthening and Integration—Program Name: Community and Family Strengthening and Integration

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Notice of availability of FY 2000 discretionary funds for refugee Community and Family Strengthening and Integration.

SUMMARY: ORR invites eligible entities to submit competitive grant applications for Priority Area One: Community and Family Strengthening and Integration for Refugees, and Priority Area Two: Technical Assistance for the Integration of Refugees and Refugee Families into American Communities.

Applications will be accepted pursuant to the Director's discretionary authority under section 412(c) of the Immigration and Nationality Act (INA)(8 U.S.C. 1522), as amended.

Applications will be screened and evaluated as indicated in this program announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

DATES: The closing date for submission of applications is July 5, 2000. See Part III of this announcement for more information on submitting applications.

FOR FURTHER INFORMATION CONTACT: Anna Mary Portz at (202) 401-1196, *APortz@ACF.DHHS.GOV.* Application materials are also available at the Office of Refugee Resettlement, 370 L'Enfant Promenade SW, Washington DC 20447 and on the ORR website at *www.acf.dhhs.gov/program/orr.*

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts:

Part I: Background, legislative authority, funding availability, CFDA Number, applicant eligibility, project and budget periods, and for each of the two priority areas—program purpose and scope, allowable activities, and review criteria.

Part II: The Review Process—Intergovernmental review, initial ACF screening, and competitive review.

Part III: The Application—application forms, application submission and deadlines, certifications, general instructions for preparing a full project description, and length of application.

Part IV: Post-award—regulations, treatment of program income, and reporting.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average 16 hours, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The following information collections are included in the program announcement: OMB Approval No. 0970–0139, ACF UNIFORM PROJECT DESCRIPTION (UPD) which expires 10/31/2000 and OMB Approval No. 0970–0036, ORR Quarterly Performance Report (QPR). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Part I

Background

This announcement is the fifth iteration of the Community and Family Strengthening and Integration (CFSI) program. In FY 1994, ORR first announced the Refugee Community and Family Strengthening (CFS) Program as Program Area One of the Omnibus Discretionary Social Services Announcement (59 FR 26070 (05/18/94).

The announcement distinguished program areas by activities directed at strengthening refugee communities and those directed at refugee families, and further between large urban areas and smaller urban or rural areas. ''Many

American communities with high concentrations of refugees have increased need for better communication and cooperation among agencies in order to increase program effectiveness, to provide services that are in touch with the needs of the refugee population, and to avoid duplication or fragmentation of services. Some of these communities have experienced a range of social and economic problems among refugee populations, particularly with regard to refugee women, youth, elderly, and in those sectors characterized by a high incidence of crime, violence, and neighborhood deterioration.''

This announcement continues to encourage service planners and providers to consider the unmet needs of refugee families and communities in the context of existing services. Through the CFSI program ORR intends to promote a local planning process where service providers and community members come together to assess how the existing services are serving refugees and what additional activities might be funded with cost-sharing support. By placing importance on communities reaching consensus with regard to projects, ORR seeks to strengthen cooperation among local service providers, community leaders, Mutual Assistance Associations, voluntary agencies, churches, and other public and private organizations involved in refugee resettlement, family, youth, and child welfare, and community mental health services. ORR intends that this process will build strategic partnerships among these groups to expand their capacity to serve the social and economic needs of refugees and to give support and direction to ethnic community participation.

The trauma refugee families may experience as a result of persecution or flight may be destabilizing to family life. Single-parent refugee families are likely to face the same stresses as U.S. single-parent families. Finally, they may live in low-income neighborhoods with higher crime rates than expected and without the benefit of an ethnic community to provide information, guidance, protection and support.

Through the CFSI program and other experience, ORR has come to recognize that refugee families residing in U.S. communities encounter significant differences in child rearing practices compared to the ethnic or national customs of their country of origin. Traditional cultures with a strong authoritarian parental role may frequently be at odds with American child rearing practices. These basic differences frequently create conflict within refugee families on how best to raise children. Further, as a result of these factors, a small number of refugee families encounter and may require the assistance of child protective services and other services of the judicial system. These experiences may not be easily understood by the refugee family and the larger refugee community leading to confusion and fear of U.S. child welfare and child protective systems. Children may also confront conflicts in fitting in with their peers or finding a sense of belonging in the schools and social groups, at the same time meeting the expectations of their parents.

Many U.S. community public services do not have the cultural expertise or language capability to work effectively with refugee families. While the Civil Rights Act of 1964 mandates equal access to public services, frequently public resources are limited, and cultural and linguistic capacity is seldom available for refugee families.

In recent years, ORR has funded initiatives for recreation for refugee youth, crime prevention among refugee youth, parenting classes, and intergenerational activities. It has become clear over time that a productive relationship with child welfare services, child protective services, childcare services, youth shelters and other youth programs such as Boys and Girls Clubs, YMCA, YWCA, after school programs, is also needed to promote the refugee families' capacity to care for their children and youth safely in their new communities.

The goal in all CFSI projects should be to build and strengthen the community's capacity to serve its members regardless of language, cultural, or ethnic differences, and to improve the quality of life and standard of living for refugee families.

Legislative Authority

This program is authorized by Section 412(c)(1)(A) of the Immigration and Nationality Act (INA)(8 U.S.C. 1522(a)(1)(A), as amended, which authorizes the Director ''to make grants to, and enter into contracts with, public or private nonprofit agencies for projects (such as) (i) * * * professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services.'' The FY 2000 Appropriation Act for the Department of Health and Human Services (Pub. L. 106–113) appropriates funds for refugee and entrant assistance activities authorized by these provisions of the INA.

As with all programs funded by appropriations pursuant to the Refugee Act, eligibility for these services is limited to persons who meet all requirements of 45 CFR 400.43 (as amended by 65 FR 15409 (03/22/00)) and 45 CFR 401.2 (Cuban and Haitian entrants), referred to collectively as ''refugees''. Further, the intent of this announcement is to target primarily refugees who have arrived within the last five years and to give special consideration to the needs of refugee children and youth within those families.

Funding Availability

ORR expects to award $5.8 million in FY 2000 discretionary social service funds through this announcement. Approximately 18 projects will be awarded under Priority Area One: Community and Family Strengthening and Integration in amounts ranging from $150,000–$400,000, in three program areas—(1) Integration into U.S. Communities, (2) Family Strengthening, (3) Community Strengthening. ORR will award one cooperative agreement of approximately $800,000 under Priority Area Two: Integration Technical Assistance.

The Director reserves the right to award less, or more, than the funds described, in the absence of worthy applications, or under such other circumstances as may be deemed to be in the best interest of the government.

CFDA Number–93.576

Applicant Eligibility

Public and private nonprofit organizations, including current CFS grantees whose projects end on September 30, 2000, are eligible to apply for ORR grants. An applicant may submit only one application per priority area, under this announcement. However, they may be involved in providing services under this announcement as a member of a coalition in which another agency is the applicant.

Any private nonprofit organization submitting an application must submit proof of its nonprofit status at the time of submission. A nonprofit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate.

Project and Budget Periods

This announcement invites applications for project periods up to three years. Awards, on a competitive basis, will be for a one-year budget period although project periods may be for three years. Applications for continuation grants funded under these awards, beyond the one-year budget period but within the three-year project period, will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

Priority Area One: CFSI

Purpose and Scope—This program announcement governs the availability of, and award procedures, for the FY 2000 Community and Family Strengthening and Integration Program and provides an opportunity for States and nonprofit organizations to request funding for activities which supplement and complement employment-related services by strengthening refugee families and communities and by enhancing their integration into mainstream society. ORR is interested in funding Priority Area One, CFSI projects, in three program areas:

(1) Integration into U.S. Communities
(2) Family Strengthening
(3) Community Strengthening

Applications may include activities in more than one program area. Applicants will designate the area under which they wish to be considered. ORR is particularly interested in projects which are planned and implemented through coalitions, address refugee needs for cultural and linguistic access to services, and provide cost-sharing support.

Coalitions

Refugee programs and local organizations, which have not already done so, are encouraged to build coalitions for the purpose of providing services funded under this Program Area. ORR strongly encourages single applications from partnerships or consortia of three or more eligible organizations. Partners may be in the refugee services provider community of organizations and institutions, or in mainstream services organizations, *e.g.,* public or private child welfare and child protective services, child care coalitions, community mental health services, women's shelters, or adult basic and continuing education providers. Collaboration may also include the Mayor's office, school parent-teacher groups, school counselors, local police departments, and other mainstream community service organizations.

All applicants should demonstrate existing refugee community support for their agency and their proposed project. If the applicant is located in an area where no other organizations work with refugees, and a coalition with other organizations is not possible, the applicant should demonstrate how the proposed services will be effectively provided by a single agency.

In this context, ORR is defining partnership as a negotiated arrangement among organizations that provides for a substantive, collaborative role for each of the partners in the planning and conduct of the project. Applications which represent a coalition of providers should include a signed partnership agreement stating a commitment or an intent to commit or receive resources from the prospective partner(s) contingent upon receipt of ORR funds, and for the lead agency, which is to be the fiscal agent, a copy of the most recent audit report. The agreement should state how the partnership arrangement relates to the objectives of the project. The applicant should also include: supporting documentation identifying the resources, experience, and expertise of the partner(s); evidence that the partner(s) has been involved in the planning of the project; and a discussion of the role of the partner(s) in the implementation and conduct of the project.

Cultural and Linguistic Compatibility

In all cases, regardless of the nature of the organization proposed to provide services or conduct activities funded under this announcement, the services/activities should be conducted in a manner linguistically and culturally compatible with the refugee families or communities to be served. In addition, the applicant must describe how proposed providers will have access to the families and to the community to be served.

In planning the project, applicants must include representatives of the target population and relevant public and private agencies active in service delivery in the proposed activity areas. As examples, a project being designed for refugee youth must include both refugee youth and public and private youth service providers among the planners; an applicant proposing English language and literacy for homebound refugee women must involve them along with ELT and literacy practitioners in the planning.

Furthermore, if interpreters are proposed in the first budget period, applicant must demonstrate how these staff will be used in subsequent years of the project, and whether they will be trained to assume an integral role in the project, such as to become service providers.

Applicants and any proposed partners should provide evidence that their governing bodies, boards of directors, or advisory bodies are representative of the refugee communities being served and have both male and female representation.

Cost-Sharing

Long-range viability for CFSI services may depend on: linkages to activities funded by other sources, the availability of expertise in the community, the likelihood of tangible results, the willingness of the community to participate actively including volunteer commitment in assuring the success of the project, and ultimately the community's capacity to continue the activity without additional ORR resources beyond the three-year project period.

Cost-sharing'' is used here to refer to any situation in which the grantee shares in the costs of a project. The term ''recipient contributions'' refers to costs borne by the grantee, either through cash outlay or the provision of services. ''In-kind contributions'' means the value of goods and/or services donated by third parties. Grantees are not considered as providing ''in-kind contributions.'' The cost-sharing or in-kind contribution costs are subject to the rules governing allowability in 45 CFR 74.23 or 92.24, including allowability under the applicable cost principles and conformance with other terms and conditions of the award that govern the expenditure of Federal funds.

Grantees must provide at least ten percent of the total approved cost of the project for the first year, 25% for the second year, and 40 percent for the third year. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $675,000 in Federal funds (based on an award of $225,000 per budget period) must provide cost-sharing of at least $22,500, ten percent in the first 12-month budget period. In subsequent continuation applications, the grantee will be asked to document receipt of non-ORR funds from other

sources. If the second year request is for a Federal share of $225,000, the grantee would be required to provide, at a minimum, cost-sharing of $75,000, or 25 percent of the full budget. In the third year, the grantee might propose to cost-share 50% of the project (must be at least 40%), and the Federal share would be an equal amount.

Grantees will be held accountable for commitments of non-Federal resources even if over the amount of the required cost-sharing. Failure to provide the amount will result in disallowance of Federal share.

Income generated from activities funded under this program shall be ''used to finance the nonfederal share of'' (ref.: 45 CFR 74.24 and 92.25) the project.

Applicants are urged to plan for the use of these funds in a manner that complements other Federal, State, and private funds available to assist the target populations and to carry out similar programs and activities.

Allowable Activities

ORR will consider applications for services which an applicant justifies, based on an analysis of service needs and available resources to address the social and economic problems and integration needs of refugee families and of the refugee community. It should be clear what is the goal or expected outcome of the activity, how it responds to the particular needs of families in that community or to a broader need of the community of families, who is committed to do what in order to accomplish this goal, and how the proposed activity fits into the existing network of services. An application may include activities in more than one program area. In selecting the program area against which the application will compete, applicants should consider the nature of outcomes for which they will be accountable. In instances where an applicant proposes activities which cut across program areas, the choice of program area should correspond to the proposed results or outcomes.

The specific services proposed may be as diverse as the refugee populations and the resettlement communities themselves. Proposed activities and services should be planned in conjunction with existing service providers and should supplement and complement these services.

Refugee families face many challenges when resettling in U.S. communities: family relationships may undergo stress and change; strong authoritarian and sometimes patriarchal family structures may provoke conflicts; schools and parents have different relationships; the range of freedom American youths are afforded may concern refugee parents; and discipline practices and spousal relations may differ from what is preferred or legal in the U.S. Typically income levels of refugee households dictate that they are often located in neighborhoods with high crime rates. Special attention should be placed on enhancing refugee access to services available to all citizens, including those community institutions which serve youth, women, or special needs populations.

Listed below are some examples of allowable activities organized by program area:

Program Area One: Integration Into U.S. Communities

Activities designed to inform and orient the refugee community regarding issues essential to effective participation in the new society.

Assistance to parents in connecting with the school system and other local community organizations.

Training and assistance for refugee women to enhance their integration and afford them full opportunities to participate in community development.

Continuing education programs for U.S.-recognized re-certification or skill-building.

Specialized English Training for groups outside the regular classes, *e.g.,* mothers of small children, homebound refugees with particular attention to accessibility of site and time.

Activities designed to facilitate adjustment of status, family reunification, and naturalization.

Activities designed to improve relations among refugees and the law enforcement communities such as drop-in centers or neighborhood storefronts.

Neighborhood watch programs.

Cross cultural training for the law enforcement community *i.e.,* police departments, court system, mediation or dispute management centers. (Please note: Law enforcement activities such as hiring sworn police officers (except those who are public service officers or community liaison officers whose job it is to work with the refugee community), fingerprinting, incarceration, *etc.,* are outside the scope of allowable services under the Refugee Act and will not be considered for funding. (Activities principally focused on parole counseling or court advocacy will not be funded.)

Program Area Two: Family Strengthening

Promotion of access to family service agencies that support families.

Classes and activities to support parenting skills, including information about U.S. cultural and legal issues, (*e.g.*), parental interaction with schools, family recreation, discipline practices, practices of corporal punishment, intergenerational conflict, child abuse, child protective services.

Development of refugee families as foster parents for refugee children.

Cross-cultural training for child protective service agencies, courts, county agencies, private businesses, and other organizations that work in this area.

Orientation and information regarding U.S. family structure, roles of men and women, divorce practices, intra-family violence intervention, sexual harassment and coercion, techniques for protection and agencies for refuge and support.

Training for staff and/or bi-lingual staff development for domestic violence or runaway youth shelters, etc.

Program Area Three: Community Strengthening

Operating community centers for the delivery of services to refugee individuals and families. Centers may also be used for information and referral services, childcare, and community gatherings. (Costs related to construction or renovation will not be considered, and costs for food or beverages are not allowable).

Communities might be organized for housing cooperatives, for youth activities, for violence intervention, for volunteer ELT and literacy services, or for crime prevention.

Development of staff in community based organizations working directly with refugees. Such activities may include training and professional consultation to increase knowledge and understanding of refugee flight and distress, and how to work with people under stress, and to increase information and understanding of how refugees are referred to or use mental health services.

Development of training curriculum and materials for relevant staff development.

Orientation and information for refugees to normalize the experience of refugee flight trauma and their reactions to the trauma, and to seek appropriate social adjustment or mental health services.

Orientation and information on refugees and resettlement for mainstream mental health providers and professionals who may have refugees in their care.

The above are only examples of services. They are not intended to limit

potential applicants in community planning. They are listed and generically described without regard to the population to be served. It will be necessary in the application to describe more specifically the target population. For example, one activity might be appropriately designed to serve only homebound women. Another might be designed for teenagers and their parents. Another might be for English language training and naturalization classes. Some might be targeted for all members of the family. Applications should correlate a planned activity with specific target audiences and discuss the relationship between the proposed activities and the target population.

Funds will not be awarded to applicants who propose to engage in activities which are designed primarily to promote the preservation of cultural heritage or which have a political objective. ORR encourages refugee community efforts to preserve cultural heritage, but believes communities should support these activities with alternative funding.

Review Criteria

All priority area one applications regardless of program area designation will be evaluated according to the following criteria:

Results or Benefits Expected—The applicant clearly described the results and benefits to be achieved. The applicant identifies how improvement will be measured on key indicators for refugee family well-being or community strengthening and integration, and provides milestones indicating progress. Proposed outcomes are tangible and achievable within the grant project period, and the proposed monitoring and information collection is adequately planned. (30 points)

Approach—The strategy and plan is likely to achieve the proposed results; the proposed activities and timeframes are reasonable and feasible. The plan describes in detail how the proposed activities will be accomplished as well as the potential for the project to have a positive impact on the quality of life for refugee families and communities (1) by improving refugees' abilities to access services, to provide mutual assistance, and to demand or create services where they are not available; and (2) by instituting changes among service providers to make them more accessible. (25 points)

Organization Profiles—Where coalition partners are proposed, the applicant has described the rationale for the collaboration, each partner agency's respective role, and how the coalition will enhance the accomplishment of the project goals. In all cases, the applicant describes planning consultation efforts undertaken, including consultation with the refugee community. The proposed coalition is appropriate with respective roles and financial responsibilities delineated. Evidence of commitment of coalition partners in implementing the activities is demonstrated, *i.e.,* by letters or the terms of the signed agreement among participants.

The applicant or coalition partners provide documented experience in performing the proposed services as well as adequate gender balance and constituent representation on the proposed project's advisory board.

Assurance is provided that proposed services will be delivered in a manner that is linguistically and culturally appropriate to the target population.

Individual organization staff including volunteers are well-qualified. The administrative and management features of the project, including a plan for fiscal and programmatic management of each activity, is described in detail with proposed start-up times, ongoing timelines, major milestones or benchmarks, a component/project organization chart, and a staffing chart. The applicant has provided a copy of its most recent audit report. (25 points)

Budget and Budget Justification—The budget and narrative justification are reasonable in relation to the proposed activities and anticipated results; the applicant makes provision for cost-sharing (*i.e.* leveraging ORR funds with non-Federal funds or in-kind support) to maintain the full budget during the overall project; the plan for the continuation of services with phase-out of ORR grant funding over the multi-year project period is realistic; and the applicant describes the extent to which the award is projected to be augmented or supplemented by other funding during and beyond the grant period (*i.e.* in the second and any subsequent year), or can be integrated into other existing service systems. (20 points)

Priority Area Two: Technical Assistance for the Integration of Refugees and Refugee Families Into American Communities

Purpose and Scope

ORR proposes to award one cooperative agreement to provide technical assistance and training to refugees, refugee service agencies, and other community organizations to assist in the integration of refugees into the mainstream of American community life. Through this project, communities and other organizations will be assisted in helping refugees gain access to, participate in, and contribute to, the economic, educational, social and civic life of the community in which they live.

The objectives of this grant are:

1. To analyze the status of refugee integration in six communities and produce a blueprint describing those factors which contribute to refugees being accepted—or not accepted—into the community;

2. To assist selected communities in organizing to develop an action plan for improved community integration;

3. To provide some financial assistance to enable one or more community agencies to carry out the plan; and,

4. To analyze the results of that effort.

As a result of this project, communities and resettlement community organizations will be better able to assist refugees in gaining access, in measurable ways, to local economic opportunities, community health and mental health resources, safe and affordable housing, participation in local school systems, and continuing education and vocational training. The technical assistance project should be designed to promote refugees' contributions to their communities through activities such as neighborhood revitalization and crime watch, small business development, bilingual staffing of local community services, naturalization rates, and participation in the community civic activities.

Under this cooperative agreement, ORR intends to: (1) Assist in developing key indicators of integration; (2) participate in the selection and field reviews of the six selected community sites; (3) review all written materials prior to their release; and (4) review and approve proposed workshops, meetings, and agenda.

The grantee will be required to: (1) Identify community agencies and institutions with the capacity and commitment to engage constructively with refugee communities and to provide them services; (2) analyze refugee community's access to services through field interviews and other assessment strategies, and prepare a blueprint of findings; (3) prepare, in collaboration with the community, an action plan for mobilizing public and private community agencies, businesses, and institutions to increase opportunities for refugees to become self-sufficient and more fully integrated into the mainstream life of the community; (4) provide, through a competitive process, sub-grant funds for implementation of the action plan; and (5) prepare and disseminate reports on

refugee community characteristics, achievements, and best practices.

Approximately $800,000 has been allocated for this project. Of this amount, $350,000 has been allocated for the purposes of the technical assistance grant. An additional $450,000 is available to the technical assistance grantee to provide funding for a local agency or consortium of agencies to implement the community action plan in up to three sites at up to $150,000 per site.

Allowable Activities

Applicants may propose all or a combination of the activities suggested below as well as other activities which support the purposes of this priority area:

Assess the local economic and social conditions, including poverty and isolation, transportation, health and mental health services, local coordination of, or linkage to, resources and services, existing housing stock, labor market opportunities, and the interaction among refugees, immigrant communities, and other local residents.

Assess local organizational strengths and weaknesses, refugee community needs, and the impact of refugees on the local community.

Analyze access to culturally and linguistically appropriate services by generation cohort (elderly, youth, *etc.*) and gender.

Facilitate the flow and exchange of community information on resources, services, and opportunities, developing a blueprint for refugee integration.

Engage State and county agencies and community advocates in program planning and community development.

Assist local organizations in developing partnerships and an action plan for local refugee integration.

Review Criteria

Priority Area Two applications will be evaluated according to the following criteria:

Results or Benefits Expected—The applicant clearly described the results and benefits to be achieved, such as improvement along key indicators for refugee integration, and the production of best practices manuals or training materials. (25 points)

Approach—The technical assistance plan is clearly described and appropriate; the proposed activities and timeframes are reasonable and feasible. The plan describes in detail how the proposed activities will be accomplished. (25 points)

Organization Profiles—The applicant demonstrates the capacity of the organization to achieve the project's objectives. Organizational expertise and experience in community development and in the provision of technical assistance activities are described and are appropriate for this project. (25 points)

Budget and Budget Justification—The budget is accurate, reasonable, clearly presented, and cost-effective. (25 points)

Part II: The Review Process

Intergovernmental Review

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Programs and Activities. Under the Order known as Single Point of Contact or SPOC, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of November 20, 1998, the following jurisdictions have elected not to participate in the Executive Order process: Alabama; Alaska; American Samoa; Colorado; Connecticut; Kansas; Hawaii; Idaho; Louisiana; Massachusetts; Minnesota; Montana; Nebraska; New Jersey; Ohio; Oklahoma; Oregon; Palau; Pennsylvania; South Dakota; Tennessee; Vermont; Virginia; and Washington. Applicants from these jurisdictions or for projects administered by federally recognized Indian Tribes need take no action in regard to E.O. 12372.

Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit any required materials to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade SW, 6th Floor, Washington DC, 20447 ATTN: Ms. Daphne Weeden.

A list of the Single Points of Contact for each participating State and Territory can be found on the web at: http://www.dhhs.gov/progorg/grantsnet/laws-reg/spoq0695.htm.

Initial ACF Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding.

Competitive Review and Evaluation Criteria

Applications which pass the initial ACF screening will be evaluated and rated by an independent review panel on the basis of evaluation criteria specified in Part I. The evaluation criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the evaluation criteria within the context of this program announcement.

Priority Area One applications will be scored and ranked in three groups corresponding to the three program areas.

Part III: The Application

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ACF. Selected elements of the ACF Uniform Project Description (UPD) relevant to this program announcement are attached as an appendix.

Application Forms

Applicants for financial assistance under this announcement must file the Standard Form (SF) 424, Application for Federal Assistance; SF 424A, Budget Information—Non-construction Programs; SF 424B, Assurances—Non-Construction Programs. The forms may be reproduced for use in submitting applications. Application materials including forms and instructions are also available from the Contact named in the preamble of this announcement.

Application Submission And Deadlines

An application with an original signature and two clearly identified copies is required. Applicants must clearly indicate on the SF424 the Priority Area under which the application is submitted, and if Priority Area One, then also the Program Area under which the project is to be considered.

The closing date for submission of applications is July 5, 2000. Mailed applications postmarked after the closing date will be classified as late.

Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Attention: Ms. Daphne Weeden.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications hand-carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, the Office of Refugee Resettlement, 6th Floor, Aerospace Building, 901 D Street, SW, Washington, DC 20447 between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note ''Attention: Ms. Daphne Weeden.'' (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications

Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines

ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, *etc.*) occur, or when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

For Further Information on Application Deadlines Contact: Ms. Daphne Weeden, Administration for Children and Families, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW, 6th Floor, Washington, DC 20447, Telephone: (202) 401–4577.

Certifications, Assurances, and Disclosure Required for Non-Construction Programs

Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a signed certification regarding lobbying with their applications, when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying.

Applicants must make the appropriate certification of their compliance with the Drug Free Workplace Act of 1988. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for an award. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

General Instructions for Preparing a Full Project Description

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested. Please refer to the UPD sections in the appendix.

Length of Applications

Each application narrative should not exceed 25 double-spaced pages in a 12-pitch font. Attachments and appendices should not exceed 25 pages and should be used only to provide supporting documentation such as administration charts, position descriptions, resumes, and letters of intent or partnership agreements. Each page should be numbered sequentially, including the attachments or appendices. This limitation of 25 pages per program area should be considered as a maximum, and not necessarily a goal.

Please do not include books or videotapes as they are not easily reproduced and are, therefore, inaccessible to the reviewers.

Part IV: Post-Award

Applicable Regulations—Applicable DHHS grant administration regulations can be found in 45 CFR part 74 or 92.

Treatment of Program Income

Program income from activities funded under this program may be retained by the recipient and added to the funds committed to the project through cost-sharing, and used to further program objectives.

Reporting Requirements

Grantees are required to file the Financial status Report (SF–269) and Program Performance Reports on a semi-annual basis. Funds issued under these awards must be accounted for and reported upon separately from all other grant activities. Although ORR does not expect the proposed projects to include evaluation activities, it does expect

grantees to maintain adequate records to track and report on project outcomes and expenditures. The official receipt point for all reports and correspondence is the ORR Grants Officer, Ms. Daphne Weeden, Administration for Children and Families/Office of Refugee Resettlement, 370 L'Enfant Promenade SW, 6th Floor, Washington, DC 20447, Telephone: (202) 401–4577. An original and one copy of each report shall be submitted within 30 days of the end of each reporting period directly to the Grants Officer.

A Final Financial and Program Report shall be due 90 days after the project expiration date or termination of Federal budget support.

Dated: May 1, 2000.

Lavinia Limon,

Director, Office of Refugee Resettlement.

Appendix I—Uniform Project Description—Overview OMB No. 0970–0139

Expires 10/31/00

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

General Instructions

Cross-referencing should be used rather than repetition. ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. (Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.) Pages should be numbered and a table of contents should be included for easy reference.

Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions.

Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived. For example, when applying for a grant to establish a neighborhood child care center, describe who will occupy the facility, who will use the facility, how the facility will be used, and how the facility will benefit the community which it will serve.

Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of microloans made. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Identify the kinds of data to be collected, maintained, and/or disseminated. Note that clearance from the U.S. Office of Management and Budget might be needed prior to a ''collection of information'' that is ''conducted or sponsored'' by ACF. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

Staff and Position Data

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Organization Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Dissemination Plan

Provide a plan for distributing reports and other project outputs to colleagues and the public. Applicants must provide a description of the kind, volume and timing of distribution.

Third-Party Agreements

Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters of Support

Provide statements from community, public and commercial leaders that support the project proposed for funding.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: Costs of tangible, non-expendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, an applicant may use its own definition of equipment provided that such equipment would at least include all equipment defined above.

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. If procurement competitions were held or if procurement without competition is being proposed, attach a list of proposed contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and the award selection process. Justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 USC 403(11) (currently set at Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Non-Federal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Total Direct Charges, Total Indirect Charges, Total Project Costs

Self explanatory.

[FR Doc. 00–11258 Filed 5–4–00; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–18]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of the publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Energy:* Mr. Tom Knox, Department of Energy, Office of Contract and Resource Management, MA–53, Washington, DC 20585; (202) 586–8715; *GSA*: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; *Navy:* Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: April 27, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 5/5/00

Suitable/Available Properties

Building (by State)

California

Bldg. 301
Naval Support Activity
Monterey Co: CA 93943–
Landholding Agency: Navy
Property Number: 77200020041
Status: Excess
Comment: 18,608 sq. ft., presence of asbestos/lead paint, needs major rehab

Idaho

Bldg. CF603
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200020004
Status: Excess
Comment: 15,005 sq. ft. cinder block, presence of asbestos/lead paint, major rehab, off-site use only

Maryland

De LaSalle Bldg.
4900 LaSalle Road
Avondale Co: Prince George MD 20782–
Landholding Agency: GSA
Property Number: 54200020007
Status: Excess
Comment: 130,000 sq. ft., multi-story on 17.79 acres, extensive rehab required, presence of asbestos/lead paint/pigeon infestation, subj. to easements, eligible for Natl Register
GSA Number: 4–G–MD–565A

Missouri

Natl Weather Svc Ofc
4100 Mexico Road
St. Peters Co: St. Charles MO 00000–
Landholding Agency: GSA
Property Number: 54200020015
Status: Excess
Comment: 4774 sq. ft., presence of asbestos, good condition, most recent use—office
GSA Number: 7–C–MO–641

Land (by State)

North Carolina

6.45 acres
Portion of McKinney Lake
Fish Hatchery
Millstone Church Road
Hoffman Co: Richmond NC 28347–
Landholding Agency: GSA
Property Number: 54200020011
Status: Excess
Comment: 6.45 acres, most recent use—outdoor horticulture classes
GSA Number: 4–GR–NC–570

North Dakota

Grand Forks Waterline
Formerly S. Mickelson Water Complex
Grand Forks Co: ND 00000–
Landholding Agency: GSA
Property Number: 54200020014
Status: Excess
Comment: 10.84 acres of improved fee land w/bldg., 527.22 acres of easement for waterline, 1.70 acres of licenses
GSA Number: 7–D–ND–499

Suitable/Unavailable Properties

Buildings (by State)

North Carolina

Vehicle Maint. Facility

310 New Bern Ave.
Raleigh Co: Wake NC 27601–
Landholding Agency: GSA
Property Number: 54200020012
Status: Excess
Comment: 10,455 sq. ft., most recent use—maintenance garage
GSA Number: NC076AB

Land (by State)

Virginia

25 acres
Wildlife Refuge
Fishermans Island Co: Northhampton VA 00000–
Landholding Agency: GSA
Property Number: 54200020010
Status: Excess
Comment: unimproved land
GSA Number: 4–N–VA–720A

New Jersey

Parcel A–1, Bldg. 228
Raritan Center
2890 Woodbridge Avenue
Edison Co: NJ 08837–
Landholding Agency: GSA
Property Number: 54200020009
Status: Excess
Reasons: Landlocked; extensive deterioration
GSA Number: 1–Z–NJ–440–O

New Mexico

Bldg. 3, TA–8
Los Alamos National Lab
Los Alamos Co: NM 87545–
Property Number: 41200020001
Status: Unutilized
Reasons: Secured area; extensive deterioration

Bldg. 51, TA–9
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landolding Agency: Energy
Property Number 41200020002
Status: Unutilized
Reason: Secured area

Bldg. 30, TA–14
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landolding Agency: Energy
Property Number: 41200020003
Status: Unutilized
Reason: Secured area

North Carolina

Bldg. 2067
Marine Corps Air Station
Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77200020036
Status: Excess
Reasons: Secured area; extensive deterioration

Bldg. 3146
Marine Corps Air Station
Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 77200020037
Status: Excess
Reason: Secured area; extensive deterioration

Virginia

CEP–12
Naval Station Norfolk
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number 77200020042
Status: Excess
Reason: Extensive deterioration

CEP–62
Naval Station Norfolk
Norfolk Co: VA 23511–
Landholding Agency: Navy
Property Number: 77200020043
Status: Excess
Reason: Extensive deterioration

CEP–206
Naval Station Norfolk
Norfolk Co: VA 23511
Landholding Agency: Navy
Property Number: 77200020044
Status: Excess
Reason: Extensive deterioration

Washington

Bldg. 398
Naval Station
Bremerton Co: WA 98314–5000
Landholding Agency: Navy
Property Number: 77200020038
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; secured area

Bldg. 976
Naval Station
Bremerton Co: WA 98314–5020
Landholding Agency: Navy
Property Number: 77200020039
Reasons: Within 2000 ft. of flammable or explosive material; secured area; extensive deterioration

8 Bldgs.
Naval Station
902, 903, 905, 907, 909–911, 915
Bremerton Co: WA 98314–5020
Landholding Agency: Navy
Property Number: 77200020040
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material; secured area

Land (by State)

Missouri

Borrow Pit Area
North of Smart Field
St. Charles Co: MO 00000–
Landholding Agency: GSA
Property Number: 54200020008
Status: Excess
Reason: Floodway
GSA Number: 7–GR–MO–0423

[FR Doc. 00–10963 Filed 5–4–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Invasive Species Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of public meetings of the Invasive Species Advisory Committee and Invasive Species Council.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of meetings of the Invasive Species Advisory Committee and the Invasive Species Council. The purpose of the Advisory Committee is to provide advice to the Council, as authorized by Executive Order 13112, on a broad array of issues related to preventing the introduction of invasive species and providing for their control and minimizing the economic, ecological, and human health impacts that invasive species cause. The Council is Co-chaired by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. The duty of the Council is to provide national leadership regarding invasive species issues. The purpose of a meeting on May 17 is to convene the full Advisory Committee and receive reports from the six working groups established to provide input for the National Invasive Species Management Plan. A second meeting on May 18 is the first joint meeting of the Advisory Committee and the Council. The meetings will be open to the public. Attendance will be limited to space available.

DATES: Meeting of Invasive Species Advisory Committee: 9 a.m., Wednesday, May 17, 2000; Meeting of Invasive Species Advisory Committee and Council: 1 p.m., Thursday, May 18, 2000.

ADDRESSES: Doubletree Hotel National Airport, 300 Army Navy Drive, Arlington, VA 22202. Committee Meeting will be held in the Commonwealth Room, Joint Committee/ Council Meeting will be held in the Washington Room.

FOR FURTHER INFORMATION CONTACT: Kelsey Passe, National Invasive Species Council Program Analyst; E-mail: kelsey__passe@ios.doi.gov; Phone: (202) 208–6336; Fax: (202) 208–1526.

Dated: May 1, 2000.

A. Gordon Brown,

Co-Executive Director, National Invasive Species Council.

[FR Doc. 00–11197 Filed 5–4–00; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–942–5420 J951; UTU–78738]

Proposed Disclaimer of Interest; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management has received an application for a Disclaimer of Interest for accreted lands along the Virgin River in Washington, County, Utah. This notice provides a public comment period for the Disclaimer of Interest.

DATES: Comments should be received by August 3, 2000.

ADDRESSES: Comments should be sent to the State Director, Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145–0155.

FOR FURTHER INFORMATION CONTACT: Angela D. Williams, Bureau of Land Management, Utah State Office, 801–539–4107.

SUPPLEMENTARY INFORMATION: The United States of America, through the Bureau of Land Management, of the Department of the Interior, hereby disclaims any interest in the following tracts of land situated in Washington County, State of Utah:

Parcel #1

Beginning at a point North 01°05′07″ West 957.00 feet along the Section Line from the Southeast Corner of Section 32, Township 42 South, Range 15 West, Salt Lake Base and Meridian; said point also being on the South Meander Line of the Virgin River as shown on the Surveyor's General Official Plat dated September 3, 1870; thence along said Meander Line the following two (2) courses: South 89°40′55″ West 1325.10 feet to the East Sixteenth (1/16) Line of said Section 32; thence South 59°40′55″ West 255.22 feet to a point on the arc of a 1477.89–foot radius curve concave to the Northeast, from which the radius point bears North 66°08′45″ East; said point also being on the Easterly Right-of-Way Line of River Road, a 100-foot wide public street; thence along said Right-of-Way Line the following two (2) courses: Northwesterly 138.84 feet along the arc of said curve through a central angle of 5°22′58″; thence North 18°28′17″ West 750.70 feet; thence leaving said Right-of-Way Line South 68°50′50″ East 786.00 feet; thence South 82°54′39″ East 135.38 feet; thence North 77°14′39″ East 87.66 feet; thence North 44°54′44″ East 663.44 feet; thence North 85°30′46″ East 176.24 feet; thence South 63°28′36″ East 491.12 feet; thence South 61°39′26″ East 1268.77 feet to the West Sixteenth (1/16) Line of said Section 33; thence along said Sixteenth Line South 00°53′19″ East 140.28 feet to the said Meander Line; thence along said Meander Line the following two (2) courses: South 85°40′55″ West 985.11 feet; thence North 69°19′05″ West 363.00 feet to the point of beginning.

Continuing 41.49 acres, lying Southerly of the Virgin River and Northerly of original riparian lots 5 and 6, Section 32, Township 42 South, Range 15 West, Salt Lake Base and Meridian.

Parcel #2

Beginning at a point South 89°40′55″ West 1876.79 feet along the Section Line and North 00°00′00″ East 647.88 feet from the Southeast Corner of Section 32, Township 42 South, Range 15 West, Salt Lake Base and Meridian; said point also being on the South Meander Line of the Virgin River as shown on the Surveyor's General Official Plat dated September 3, 1870; said point also being on the arc of an 822.85-foot radius curve concave to the Northeast from which point the radius point bears North 76°35′00″ East; thence Northwesterly 75.61 feet along the arc of said curve through a central angle of 5°15′54″; thence North 08°09′06″ West 866.84 feet; thence North 14°58′06″ West 193.60 feet; thence North 79°21′04″ East 9.32 feet; thence North 58°29′09″ East 14.74 feet; thence North 34°47′30″ East 17.78 feet; thence South 52°04′08″ East 24.12 feet; thence South 25°00′10″ East 31.06 feet; thence South 60°04′38″ East 19.83 feet; thence South 75°46′19″ East 4.15 feet to a point on the Westerly Right-of-Way Line of River Road, a 100.00-foot wide public street; thence along said Right-of-Way line the following two (2) courses: South 18°28′17 East 852.50 feet to the point of curvature of a 1577.89-foot radius curve concave to the Northeast; thence Southeasterly 159.57 feet long the arc of said curve through a central angle of 5°47′39″ to a point from which the radius point bears North 65°44′04″ East; thence leaving said Right-of-Way Line South 59°40′55″ West 2662.26 feet to the point of beginning.

Containing 3.76 acres, lying Southerly of the Virgin River and Northerly of original riparian lot 5, Section 32, Township 42 South, Range 15 West, Salt Lake Base and Meridian.

By this action, the United States of America hereby releases and relinquishes any claim of interest to the above described land.

Further, the United States of America hereby releases and relinquishes any claim of interest to the surface lands, for lands patented out, from their original surveyed and plated location to the center line of the Virgin River. This statement does not address any subsurface interest that may still vested with the United States of America.

The public is hereby notified that comments may be submitted to the State Director at the address shown above withing the comment period identified above. Any adverse comments will be evaluated by the State Director who may modify or vacate this action and issue a final determination. In absence of any action by the State Director, this notice will become the final determination of the Department of the Interior and a disclaimer of interest maybe issued 90 day from the publication of this notice.

Joseph Incardine,

Chief, Branch of Lands and Realty.

[FR Doc. 00–11234 Filed 5–4–00; 8:45 am]

BILLING CODE 4310–DQ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–059–00–1020–AC]

Resource Advisory Council Meeting, Dillon, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Western Montana Resource Advisory Council will convene at 10 a.m., Wednesday, May 31, 2000, and 9:00 a.m., Thursday, June 1, 2000, at the Dillon Field Office, 1005 Selway Drive, Dillon, Montana. On Wednesday, there will be a field trip to Dyce Creek to discuss issues associated with the Dyce Creek Forest Health Project, the field trip will end at 5:00 p.m. At the Thursday meeting, issues will include the Whitetail-Pipestone Environmental Impact Statement and BLM's budget, Thursday's meeting will end at 12:00 p.m.

The meeting is open to the public and written comments can be given to the Council. Oral comments may be presented to the Council at 11:30 a.m. on Thursday. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting, or who need special assistance, such as sign language or other reasonable accommodations, should contact Jean Nelson-Dean, Resource Advisory Coordinator, at the Butte Field Office, 106 North Parkmont, P.O. Box 3388, Butte, Montana 59702–3388, telephone 406–533–7617.

FOR FURTHER INFORMATION CONTACT: Scott Powers, Dillon Field Manager, 406–683–2337, or Jean Nelson-Dean at the above address and telephone number.

Dated: April 28, 2000.

Dave Williams,

Acting Field Manager.

[FR Doc. 00–11217 Filed 5–4–00; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

Notice of Pryor Mountain Area Off-Highway Vehicle (OHV) Designation

ACTION: Notice; correction.

SUMMARY: The Bureau of Land Management published a document in the **Federal Register** of April 20, 2000, concerning designations for Off Highway Vehicle use on public lands. The document contained an incorrect road name and number.

FOR FURTHER INFORMATION CONTACT: David Jaynes, 406–896–5013.

Correction

In the **Federal Register** of April 20, 2000 (Volume 65, Number 77) on page 21209, correct the sentence in ''Summary'' from ''Bear Canyon Ridge Road [1031] from East Horsehaven [1030] T.9S., R.26E., Section 2, meandering north to the Custer National Forest in Section 2'' to read ''Bear Canyon Ridge Road [1031] from West Horsehaven [1021] T.9S., R.26E., meandering north to the Custer National Forest in Section 2''.

Dated: May 1, 2000.

Sandra S. Brooks,

Field Manager.

[FR Doc. 00–11235 Filed 5–4–00; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–170–00N1220–DA]

Notice of Intent To Amend the San Juan/San Miguel Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Amend the San Juan/San Miguel Resource Management Plan, and prepare an Environmental Assessment (EA).

SUMMARY: The Bureau of Land Management (BLM) announces the initiation of a Resource Management Plan (RMP) Amendment for the Grandview Ridge Coordinated Resource Management Plan, affecting approximately 1,600 acres of BLM administered public land. The proposed action has been reviewed for conformance with the San Juan Field Office Resource Management Plan (43 CFR 1610.5, BLM 1617.3). The proposed action would amend certain portions of the plan as follows: (1) Motorized use would be limited to access for oil/gas development and maintenance, use and maintenance of existing ROWs, wildlife habitat improvement projects, and administrative use, (2) Recreation emphasis would be added to the existing Wildlife and Mineral emphasis, and (3) the Mineral emphasis for sand and gravel development would be reduced from 400 to 160 acres.

ADDRESSES: To obtain copies of the Proposed Plan Amendment/EA and Finding of No Significant Impact and for further information, contact Calvin N. Joyner, Bureau of Land Management (BLM) San Juan Public Lands Center, Durango, Colorado 81301; Telephone (970) 247–4874.

DATES: This notice initiates a 30 day public comment period on the proposed plan amendment and finding of no significant impact.

SUPPLEMENTARY INFORMATION: The BLM conducted an open house on November 5, 1998, and written comments were received until January 30, 1999, to identify issues to be evaluated and to determine if new issues and circumstances warranted amending the RMP. The Grandview Ridge Coordinated Resource Management Area includes the following public lands totaling approximately 1,600 acres: In New Mexico Principal Meridian: T.34N., R.9W., Section 3 SE¼ NW¼: Lots 5, 6, 7, 8, 9, 10, 11, 12 & 13.; Section 4: Lots 5, 6, 7, 8, 9, 10, 11 & 12; Section 9: 1, 2 4 & 5; Section 10: NW¼ NW¼. T.34N., R.9W., Section 34. T.35N., R.9w., Section 26: SE¼ NE¼, SE¼ SW¼, W¼ SE¼; Section 34: Lots 6, 9, 13, 14 & 15; Section 35: W½ NW¼.

In accordance with Section 202 of FLPMA, the San Juan RMP will be reviewed and potentially amended. The first step in this process involved soliciting public input to identify issues to be evaluated in the process. Issue identification is integral to the EA and amendment process, and was utilized to focus on relevant environmental concerns, identify controversy over resource management activities and identify alternative management for the area. The issues addressed by this Plan Amendment/EA include safety, resource protection, cultural resources, wildlife habitat, mineral development, and recreational opportunities. Following completion of issue identification, the BLM identified alternatives to be analyzed and planning criteria to guide the plan amendment process. Additional public input was solicited at a later date to complete these steps in the process. Planning criteria are the standards, rules, and other factors used in formulating judgements about data collection, analysis, and decision making. These criteria establish parameters and help focus the amendment process. The proposed planning criteria include:

1. All proposed actions and alternatives considered must comply with current laws and Federal Regulations.

2. The resource allocations of proposed actions will be made in accordance with the principles of ''multiple use'' as defined in the Federal Land Policy and Management Act of 1976 (FLPMA), Sec. 103(c).

3. The Proposed Plan Amendment will consider the relatively scarcity of the values involved and the availability of alternative means and sites for realization of those values.

4. This planning process provided for public involvement including early notice and frequent opportunity for citizens and interested groups and others to participate in and comment on the preparation of plans and related guidance.

5. To the extent possible under Federal law, and within the framework of proper long-term management of the public lands, BLM will strive to ensure that its management prescriptions and planning actions take into consideration related programs, plans, or policies of other resource agencies. This will include the formal consistency review by the Governor of Colorado.

6. BLM provided local, State and Federal agencies a copy of the Draft EA with a written request to comment. Agencies may identify in writing any inconsistencies with formally approved land use plans or related jurisdictions.

7. Planning decisions will apply only to BLM administered public lands.

8. All valid existing rights will continue to be recognized.

Dated: April 24, 2000.

Calvin N. Joyner,

Field Manager, San Juan Field Office.

[FR Doc. 00–11265 Filed 5–4–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Statements; Availability etc; Gettysburg National Military Park

AGENCY: National Park Service (NPS), Department of Interior (DOI).

ACTION: Notice of availability of an environmental assessment on the proposed demolition and removal of the National Tower at Gettysburg National Military Park, Gettysburg, PA.

SUMMARY: Pursuant to the Council on Environmental Quality regulations and National Park Service policy, the NPS announces the availability of a draft environmental assessment on the proposed demolition and removal of the National Tower at Gettysburg National Military Park, Gettysburg, PA. The purpose of this environmental assessment is to present the alternatives for removal of the tower and related impacts. Specific actions required for future site restoration are not described or analyzed within this document. The NPS is soliciting comments on this environmental assessment. NPS will consider these comments in making a decision pursuant to the National Environmental Policy Act (NEPA) and the National Historic Preservation Act of 1966 (NHPA).

DATES: The environmental assessment will remain available for public comment through May 31, 2000.

FOR FURTHER INFORMATION CONTACT: Katie Lawhon, (717) 334–1124 extension 452 or write to Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, PA 17325.

SUPPLEMENTARY INFORMATION: On December 9, 1999, the Department of Justice filed a complaint in condemnation at the U.S. District Court in Harrisburg, Pennsylvania. This action was the first formal legal step in the federal government's acquisition of the privately owned 307-foot observation tower, the land upon which it sits and its appurtenant rights-of-way. The action to acquire the National Tower, which overlooks the Gettysburg Battlefield, implements the decision made by the National Park Service as part of its 1990 Boundary Study and its 1993 Land Protection Plan to add the site to the park, acquire the land and the tower, and remove the tower.

Removal of non-historic structures in order to restore natural conditions is listed by the NPS as a categorical exclusion under the National Park Service procedures for implementing the provisions of the National Environmental Policy Act (NEPA). However, in the interests of disclosing the limited impacts associated with the demolition of the non-historic tower structure, this environmental assessment ahs been prepared for public and agency review. Alternatives analyzed in the draft Environmental Assessment include Alternative 1, (the Proposal), Tower Removal and Alternative 2, No Action. Under Alternative 1, the tower structure and its surrounding buildings would be demolished and removed. Demolition itself could be accomplished through a variety of methods. One alternative method would be to dismantle the structure in a piece-by-piece method through use of cranes and other mechanical methods. Another demolition method would be to use an implosion method to reduce the tower and associated structures into on-site debris and then remove the debris. Under all methods, the resulting debris would be removed by truck to approved scrap yards/resale facilities and landfills. Under Alternative 2, No Action, the tower property would be acquired as stated in previous planning documents. The NPS would close the National Tower to public access and use, but the tower would not be removed. This alternative is presented for baseline purposes of comparison. All interested agencies, organizations, and individuals are urged to provide comments on the draft Environmental Assessment. All comments received by the closing date will be considered by NPS as it completes its NEPA and NHPA compliance.

Dated: April 28, 2000.

John A. Latschar,

Superintendent, Gettysburg National Military Park.

[FR Doc. 00–11202 Filed 5–4–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

Withdrawn General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, the following General Wage Determinations:

IA000015—See IA000020
IA000046—See IA000020
IA000053—See IA000020
IA000055—See IA000020
ND000008—See ND000006
ND000010—See ND000006 and ND000007
ND000011—See ND000007 and ND000009
ND000012—See ND000009
ND000013—See ND000007
ND000014—See ND000009
ND000015—See ND000007
ND000016—See ND000007
ND000018—See ND000007
ND000019—See ND000006
ND000020—See ND000009
ND000021—See ND000006
ND000022—See ND000006
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ND000024—See ND000006
ND000025—See ND000006
ND000030—See ND000007
SD000003—See SD000006
SD000008—See SD000011
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SD000010—See SD000007
SD000012—See SD000006 and SD000007
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SD000016—See SD000007
SD000018—See SD000011
SD000019—See SD000007
SD000020—See SD000006
SD000021—See SD000007
SD000022—See SD000007
SD000023—See SD000006
SD000024—See SD000002
SD000025—See SD000011
SD000026—See SD000007

Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis—Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 27th day of April 2000.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–10902 Filed 5–4–00; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Computational Infrastructure & Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Computational Infrastructure & Research (#1185).

Date and Time: May 26, 2000, 8:30am–5:00pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 320, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Charles H. Koelbel, Program Director, Advanced Computational Research Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning Visualization & Data Management Proposals submitted to NSF for financial support.

Agenda: To review and evaluate Proposals in the Advanced Computational Research Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11267 Filed 5–04–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (1189).

Date and Time: June 4–5, 2000; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 370, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Sohi Rastegar, Program Director, Biomedical Engineering and Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate regular research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and person information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11271 Filed 5–4–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Biological Sciences (1754).

Date & Time: May 18, 19, 2000, 9 a.m.–6 p.m. daily.

Place: Room 380, NSF, 4201 Wilson Boulevard, Arlington, Virginia.

Type of Meeting: Closed.

Contact Person: Dr. Gerald Selzer, Program Director, Field Stations Marine Laboratory, Division of Biological Infrastructure, Room 615, NSF, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1470.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Field Stations Marine Laboratories proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11272 Filed 5–4–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences: Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Biological Sciences (1110).

Date and Time: July 19–21, 2000.

Place: Room 630, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Part-open.

Contact Person: Dr. Samuel Scheiner, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1480.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support

Agenda: Closed Session: July 19, 2000, 8:30 a.m. to 5 p.m.; July 20, 2000, 8:30 a.m.–1 p.m. and 3–5 p.m.; July 21 9:30 a.m.–5 p.m.; review and evaluate proposals as part of the selection process for awards.

Open Session: July 20, 2000, 2–3 p.m. discussion on research trends, opportunities and assessment procedures in the Systematic and Population Biology Cluster.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personnel information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11276 Filed 5–4–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).

Date and Time: 18 and 19, May, 2000, 8 a.m. to 5 p.m.

Place: NSF, 4201 Wilson Boulevard, Rooms 365 and 310, Arlington, Virginia 22230.

Type of Meeting: Closed.

Contact Person: Dr. Jorn Larsen-Basse, Program Director Surface Engineering and Material Design, Division of Civil and Mechanical Systems, Room 545, (703) 306–1361.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY'00 Mechanics and Structures of Materials and Surface Engineering and Material Design Review Panel proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11273 Filed 5–4–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Educational Systemic Reform; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Educational Systemic Reform (1765).

Date and Time: May 11–12, 2000; 8 a.m.–5:30 p.m.

Place: Room 370, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Kathleen Bergin or Celeste Pea, Program Directors, Division of Educational Systemic Reform, National Science Foundation, 4201 Wilson Boulevard, Room 875 Arlington, VA 22230. Telephone: (703) 306–1682.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for the Urban Systemic Program as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11268 Filed 5–4–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Educational Systemic Reform; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Educational Systemic Reform (1765).

Date and Time: June 1–2, 2000; 8 a.m.–5:30 p.m.

Place: Room 370, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Celeste Pea, Program Director, Division of Educational Systemic Reform, National Science Foundation, 4201 Wilson Boulevard, Room 875, Arlington, VA 22230. Telephone: (703) 306–1682.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for the Supplement: Urban Systemic Program, K–12 Higher Education Partnerships as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11269 Filed 5–04–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems (1196).

Date and Time: May 15–16, 2000, 8:30 am to 5 pm.

Place: Room 680, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Gernot Pomrenke, Program Director, Room 675, Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1339.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted in response to the program announcement (NSF 99–2).

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11275 Filed 5–4–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Engineering Education and Centers; Revised Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Engineering Education and Centers (#173).

Date and Time: June 1–2, 2000, 8:30 a.m.–5:30p.m. (Originally was announced for May 31–June 2).

Place: National Science Foundation, Rooms 360, 380, and 680. 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Dr. Cheryl Cathey, Program Director; Engineering Education and Centers Division; National Science Foundation, Room 585; 4201 Wilson Blvd., Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Nanoscale Modeling and Simulation Program (Small Group Initiative) as part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information: financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b. (c)(4) and (6) of the Government in the Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11274 Filed 5–4–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental Program To Stimulate Competitive Research, Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Experimental Program to Stimulate Competitive Research (1198)

Date and Time: May 24–25, 2000; 8 a.m.–5:00 p.m.

Place: National Science Foundation, Room 830, 4201 Wilson Boulevard, Arlington, VA

Type of Meeting: Part-Open.

Contact Person: Dr. Richard J. Anderson, Senior Science Advisor, Office of Experimental Program to Stimulate Competitive Research, Room 875, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. (703) 306–1683.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials

Public Sessions: May 24; 8 am–10 am; May 25; 3:00 pm–4:00 pm—Presentation of Committee of Visitors findings including outcomes under the Government Performance and Results Act (GPRA).

Agenda: To review and evaluate the Experimental Program to Stimulate Competitive Research Program and provide assessment of program level technical and managerial matters pertaining to proposal decisions and program operations.

Reason for Closing: Proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11270 Filed 5–4–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Geosciences (1756).

Date & Time: May 22, 2000; 2 p.m.–6:00 p.m.; May 23, 2000; 9 a.m.–6:00 p.m.; May 24, 2000; 9 a.m.–4:00 p.m.

Place: Room 350, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Anne-Marie Schmoltner, Program Director, Atmospheric Chemistry Program, Room 775, Division of Atmospheric Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1522

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Aerosol Characterization Experiments (ACE)-Asia proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11278 Filed 5–04–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Polar Program; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Office of Polar Programs' Advisory Committee Meeting (1130).

Date and Time: May 22, 2000 8:30 a.m. to 5 p.m. May 23, 2000 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Brenda Williams, Office of Polar Programs (OPP), National Science Foundation, 4201 Wilson Blvd., Suite 755, Arlington, VA 22230. Telephone: (703) 306–1030.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise NSF on the impact of its policies, programs, and activities on the polar research community; to provide advice to the Director of OPP on issues related to long range planning, and to form *ad hoc* subcommittees to carry out needed studies and tasks.

Agenda: Discussion of NSF-wide initiatives, long-range planning, and GPRA.

Dated: May 2, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–11277 Filed 5–4–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8681]

International Uranium (USA) Corporation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of request from International Uranium Corporation to amend Source Material License SUA–1358 to receive and process alternate feed materials; Notice of opportunity for hearing

SUMMARY: Notice is herby given that the U.S. Nuclear Regulatory Commission has received, by letter dated March 16, 2000, a request from International Uranium (USA) Corporation (IUC) to amend its NRC Source Material License SUA–1358, to allow their White Mesa Uranium Mill near Blanding, Utah, to receive and process up to 100,000 cubic yards of alternate feed material from the Linde Formerly Utililized Sites Remedial Action Program (FUSRAP) site in Tonawanda, New York.

FOR FURTHER INFORMATION CONTACT: Mr. William von Till, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T7–J8, Washington, DC 20555. Telephone (301) 415–6251.

SUPPLEMENTARY INFORMATION: By its submittal dated March 16, 2000, IUC requested that the NRC amend Materials License SUA–1358 to allow the receipt and processing of material other than natural uranium ore (i.e., alternate feed material) at its White Mesa uranium mill located near Blanding, Utah. These materials would be used as an ''alternate feed material'' (i.e., matter that is processed in the mill to remove the uranium but which is different from natural uranium ores, the normal feed material). These sites currently are being remediated by the U.S. Army Corps of Engineers (USACE) under FUSRAP. (See the USACE web site at http://www.lrb.usace.army.mil/fusrap/linde/index.htm for locations, documents, and photographs of the sites).

IUC proposes to receive contaminated materials from the Linde site for processing at its uranium mill. The material consists primarily of moist soils containing byproducts from uranium processing operations (i.e., ''tailings''), mixed with other site soils. Uranium, thorium, and radium are its primary radiological constituents. Based on USACE documents, IUC estimates the amount of material for this amendment request to be 70,000 to 100,000 yd^3. Actual amounts removed would be determined based on sampling at the time of excavation. The total amount could also be less than this range because the USACE has selected other contractors to dispose of this material. This application will be reviewed using our formal guidance, ''Final Position and Guidance on the Use of Uranium Mill Feed Material Other Than Natural Ores' and the Nuclear Regulatory Commission's Memorandum and Order, *International Uranium (USA) Corp.,* CLI–00–01, (February 10, 2000). The NRC has approved similar amendment requests in the past for separate alternate feed material.

The Linde property is one of four properties that comprise the Tonawanda site. The NRC has already granted license amendments to IUC to process material from two of the other properties within the Tonawanda site, Ashland 1 and Ashland 2, which contained uranium byproduct material originally generated at the Linde property. The primary radioactive contaminants in the soils are Uranium-238 (U-238), Radium-226 (Ra–226), Thorium-230 (Th-230), and their respective decay products. IUC, based on a review of material, states that the weighted average grade of uranium for the Linde site is estimated to be 0.07 percent, with hot spots up to 0.3 percent.

The amendment application is available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street NW, Washington DC 20555.

Notice of Opportunity for Hearing

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provisions of 10 CFR part 2, Subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(d), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, International Uranium (USA) Corporation, Independence Plaza, Suite 950, 1050 Seventeenth Street, Denver, Colorado 80265; Attention: Michelle Rehmann; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

In addition, members of the public may provide comments on the subject application within 30 days of the publication of this notice in the **Federal Register**. The comments may be provided to David L. Meyer, Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555.

Dated at Rockville, Maryland, this 28th day of April 2000.

For the Nuclear Regulatory Commission.

Thomas H. Essig,

Chief, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–11242 Filed 5–4–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8681]

International Uranium (USA) Corporation; Notice of Opportunity for Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Receipt of Request from International Uranium Corporation to Amend Source Material License SUA–1358 to Receive and Process Alternate Feed Materials, Notice of Opportunity for Hearing.

SUMMARY: Notice is herby given that the U.S. Nuclear Regulatory Commission has received, by letter dated April 12, 2000, a request from International Uranium (USA) Corporation (IUC) to amend its NRC Source Material License SUA–1358, to allow their White Mesa Uranium Mill near Blanding, Utah, to receive and process up to 140,000 cubic yards of alternate feed material from the W.R. Grace Site located in Chattanooga, Tennessee. The W.R. Grace material is being remediated under the authority of the State of Tennessee and is licensed by the Division of Radiological Health under Source Material License S–3306–E9.

FOR FURTHER INFORMATION CONTACT: Mr. William von Till, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T7–J8, Washington, DC 20555. Telephone (301) 415–6251.

SUPPLEMENTARY INFORMATION: By its submittal dated April 12, 2000, IUC requested that the NRC amend Materials License SUA–1358 to allow the receipt and processing of material other than natural uranium ore (*i.e.*, alternate feed material) at its White Mesa uranium mill located near Blanding, Utah. These materials would be used as an ''alternate feed material'' (*i.e.*, matter that is processed in the mill to remove the uranium but which is different from natural uranium ores, the normal feed material).

IUC proposes to receive contaminated materials from the W.R. Grace Site for processing at its uranium mill. This material consists primarily of moist soils containing byproducts (*i.e.* ''tailings'') as a result of thorium and rare earth mineral extraction. The W.R. Grace Site is being remediated under the regulatory authority of the State of Tennessee and the material is licensed by Tennessee as source material under Source Material License S–3306–E9. IUC estimates the amount of material for this amendment request to be up to 140,000 yd.[3] The primary radioactive contaminants in the soils are Uranium-238 (U-238), Radium-226 (Ra-226), Radium-228 (Ra-228), Thorium-230 (Th-230), Thorium 232 (Th-232), Potassium-40 (K-40) and their respective decay products. IUC, based on a review of material, states that the weighted average grade of uranium for the W.R. Grace Site is estimated to range from 0.5 to approximately 1.1 weight percent, or greater, with an overall average grade of 0.74 percent uranium (0.87 percent U_3O_8). IUC estimates the amount of material for this amendment request to be 93,000 to 140,000 yds.[3] Actual amounts removed would be determined based on sampling at the time of excavation. W.R. Grace and IUC have determined that no listed hazardous wastes numerated in the U.S. Code of Federal Regulations, Title 40 part 261, Subpart D, as amended by the U.S. **Federal Register** August 6, 1998, are contained within this material.

The material will be shipped by rail in intermodal containers and then transferred to truck for the part of the trip to the mill. Material would be loaded onto railcars and transported cross-country to the final rail destination, where they will be transferred to truck for the final leg of the trip to the mill (expected to be either near Grand Junction, Colorado; Cisco, Utah; Green River, Utah; or East Carbon, Utah). The material will be shipped as radioactive low specific activity (LSA) Hazard Class 7 Hazardous Material as defined by Department of Transportation regulations.

This application will be reviewed using NRC formal guidance, ''Final Position and Guidance on the Use of Uranium Mill Feed Material Other Than Natural Ores'' and the guidance

contained in the Nuclear Regulatory Commission's Memorandum and Order, *International Uranium (USA) Corp.*, CLI–00–01, (February 10, 2000). The NRC has approved similar amendment requests in the past for separate alternate feed material under this and other licenses.

The amendment application is available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street N.W., Washington D.C. 20555.

Notice of Opportunity for Hearing

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provisions of 10 CFR part 2, subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(d), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, International Uranium (USA) Corporation, Independence Plaza, Suite 950, 1050 Seventeenth Street, Denver, Colorado 80265; Attention: Michelle Rehmann; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

In addition, members of the public may provide comments on the subject application within 30 days of the publication of this notice in the **Federal Register**. The comments may be provided to David L. Meyer, Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555.

Dated at Rockville, Maryland, this 20th day of April 2000.

For the U.S. Nuclear Regulatory Commission.

Thomas H. Essig,

Chief, Uranium Recovery and Low Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–11243 Filed 5–4–00; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Office of Management and Budget

Submission for OMB Review; Comment Request

April 27, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 5, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0108.

Form Number: IRS Form 1096.

Type of Review: Extension.

Title: Annual Summary and Transmittal of U.S. Information Returns.

Description: Federal 1096 is used to transmit information returns (Forms 1099, 1098, 5498, and W–2G) to the IRS Service Centers. Under Internal Revenue Code (IRC) section 6041 and related sections, a separate Form 1096 is U.S.C. for each type of return sent to the service centers by the taxpayer. It is used by IRS to summarize and categorize the transmitted forms.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 4,023,036.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 751,556 hours.

OMB Number: 1545–1241.

Regulation Project Number: PS–92–90 Final.

Type of Review: Extension.

Title: Special Valuation Rules.

Description: Section 2701 of the Internal Revenue Code allows various elections by family members who make gifts of common stock or partnership interests and retain senior interests. The elections affect the value of the gifted interests and the retained interests.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,200.

Estimated Burden Hours Per Respondent: 25 minutes.

Frequency of Response: Other (one-time election).

Estimated Total Reporting Burden: 496 hours.

OMB Number: 1545–1254.

Regulation Project Number: FI–34–91 Final.

Type of Review: Extension.

Title: Conclusive Presumption of Worthlessness of Debts held by Banks.

Description: Paragraph (d)(3) of section 1.166–2 of the regulations allows banks and thrifts to elect to conform their tax accounting for bad debts with their regulatory accounting. An election, or revocation thereof, is a change in method of accounting. The collection of information required in section 1.166–2(d)(3) is necessary to monitor the elections.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 50 hours.

OMB Number: 1545–1260.
Regulation Project Number: CO–62–89 Final.
Type of Review: Extension.
Title: Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitation on Corporate Net Operating Loss Carryforwards.
Description: The reporting requirements concerns the election a taxpayer may make to treat as the change date the effective date of a plan of reorganization in a title II or similar case rather than the confirmation date of a plan.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 10.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: Other (once).
Estimated Total Reporting Burden: 1 hour.
OMB Number: 1545–1344.
Regulation Project Number: CO–30–92 Final.
Type of Review: Extension.
Title: Consolidated Returns—Stock Basis and Excess Loss Accounts, Earnings and Profits, Absorption of Deductions and Losses, Joining and Leaving Consolidated Groups, Worthless Stock Loss, Non-applicability of Section 357(c).
Description: The reporting requirements affect consolidated taxpayers who will be making elections (if made) to treat certain loss carryovers as expiring and an election (if made) allocating items between returns. The information will facilitate enforcement of consolidated return regulations.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 52,049.
Estimated Burden Hours Per Respondent: 45 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 18,600 hours.
OMB Number: 1545–1364.
Regulation Project Number: INTL–372–88 Final and INTL–401–88 Final.
Type of Review: Extension.
Title: Section 482 Cost Sharing Regulations (INTL–372–88); and Intercompany Transfer Pricing Regulations Under Section 482 (INTL–401–88).
Description: INTL–372–88: The information will be used to determine whether an entity is an eligible participant of a qualified cost sharing arrangement and whether each eligible participant is sharing the costs and benefits of intangible development on an arm's length basis.

INTL–401–888: This document contains regulations relating to the pricing of transfers of tangible property, intangible property, or services between related parties.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 1,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 7 hours, 51 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 7,850 hours.
OMB Number: 1545–1403.
Regulation Project Number: FI–46–93 Final.
Type of Review: Extension.
Title: Hedging Transactions.
Description: The information is required by the IRS to aid in administering the law and to prevent manipulation. The information will be used to verify that a taxpayer is properly reporting its business hedging transactions.
Respondents: Business or other for-profit.
Estimated Number of Recordkeepers: 110,000.
Estimated Burden Hours Per Recordkeeper: 52 minutes.
Estimated Total Recordkeeping Burden: 95,000 hours.
OMB Number: 1545–1535.
Revenue Procedure Number: Revenue Procedure 97–19.
Type of Review: Extension.
Title: Timely Mailing Treated as Timely Filing.
Description: Revenue Procedure 97–19 provides the criteria that will be used by the IRS to determine whether a private delivery service qualifies as a designated Private Delivery Service under section 7502 of the Internal Revenue Code.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 5.
Estimated Burden Hours Per Respondent: 613 hours, 48 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 3,069 hours.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 00–11301 Filed 5–4–00; 8:45 am]
BILLING CODE 4830–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Application for Spouse Annuity Under the Railroad Retirement Act.
(2) *Form(s) submitted:* AA–3.
(3) *OMB Number:* 3220–0042.
(4) *Expiration date of current OMB clearance:* 6/30/2000.
(5) *Type of request:* Revision of a currently approved collection.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 8,500.
(8) *Total annual response:* 8,500.
(9) *Total annual reporting hours:* 4,717.
(10) *Collection description:* The Railroad Retirement Act provides for the payment of annuities to spouses of railroad retirement annuitants who meet the requirements under the Act. The application obtains information supporting the claim for benefits based on being a spouse of an annuitant. The information is used for determining entitlement to and amount of the annuity applied for.

Additional Information or Comments

Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,
Clearance Officer.
[FR Doc. 00–11218 Filed 5–4–00; 8:45 am]
BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44

U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Repayment of Debt.

(2) *Form(s) submitted:* G–421f.

(3) *OMB Number:* 3220–0169.

(4) *Expiration date of current OMB clearance:* 6/30/2000.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 300.

(8) *Total annual responses:* 300.

(9) *Total annual reporting hours:* 25.

(10) *Collection description:* Section 2 of the Railroad Retirement Act provides for payment of annuities to retired or disabled railroad employees, their spouses, and eligible survivors. When the RRB determines that an overpayment of RRA benefits has occurred, it initiates prompt action to notify the claimant of the overpayment and to recover the amount owed. The collection obtains information needed to allow for repayment by the claimant by credit card, in addition to the customary form of payment by check or money order.

Additional Information or Comments

Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 00–11219 Filed 5–4–00; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (InterDigital Communications Corporation, Common Stock, $.01 Par Value, and Series B Junior Participating Preferred Stock Rights) File No. 1–11152

April 28, 2000.

InterDigital Communications Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw the securities described above (''Securities'')[3] from listing registration on the American Stock Exchange LLC (''Amex'') and under Section 12(b) of the Act.[4]

The Company, whose business relates to wireless communications technology, has determined to transfer trading in its Securities from the Amex to the National Market of the Nasdaq Stock Market, Inc. (''Nasdaq''), which the Company believes offers the most trading activity and best liquidity and exposure for the securities of technology companies. The Company has registered its Securities pursuant to Section 12(g) of the Act[5] by filing a Registration Statement on Form 8–A with the Commission on April 25, 2000. The Securities subsequently became designated for quotation and began trading on the Nasdaq National Market, and were simultaneously suspended from trading on the Amex, on April 26, 2000.

The Company has stated that it has complied with the Rules of the Amex governing the withdrawal of its Securities from listing and registration on the Exchange and that the Amex, in turn, has indicated that it will not oppose such withdrawal.

The Company's application relates solely to the withdrawal of the Securities from listing and registration on the Amex and shall have no effect upon the Securities' designation for quotation and trading on the Nasdaq National Market and registration under Section 12(g) of the Act.[6]

Any interested person may, on or before May 19, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–11333 Filed 5–4–00; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] The Series B Junior Participating Preferred Stock Rights are currently attached to, and trade together with, shares of the Common Stock.

[4] 15 U.S.C. 78*l*(b).

[5] 15 U.S.C. 78*l*(g).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24430; 812–11194]

SEI Investments Management Corporation, et al.; Notice of Application

April 28, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application under: (a) Section 6(c) of the Investment Company Act of 1940 (the ''Act'') requesting an exemption from sections 12(d)(3) and 17(e) of the Act and rule 17e–1 under the Act; (b) sections 6(c) and 17(b) of the Act requesting an exemption from section 17(a) of the Act; and (c) section 10(f) of the Act requesting an exemption from section 10(f) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered open-end management investment companies advised by several investment advisers to engage in principal and brokerage transactions with a broker-dealer affiliated with one of the investment advisers and to purchase securities in certain underwritings. The transactions would be between the broker-dealer and a portion of the investment company's portfolio not advised by the adviser affiliated with that broker-dealer. The order also would permit these investment companies not to aggregate certain purchases from an underwriting syndicate in which an affiliated person of one of the investment advisers is a

principal underwriter. Further, applicants request relief to permit a portion of an investment company's portfolio to purchase securities issued by a broker-dealer, which is an affiliated person of an investment adviser to another portion, subject to the limits in rule 12d3–1 under the Act.

APPLICANTS: SEI Institutional Investments Trust, SEI Institutional Managed Trust, SEI Institutional International Trust, and SEI Insurance Products Trust (collectively, the ''Trusts''), and SEI Investments Management Corporation (''SIMC'').

FILING DATES: The application was filed on June 24, 1998. Applicants have agreed to file an amendment, the substance of which is reflected in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 22, 2000, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, in c/o Todd B. Cipperman, Esq., SEI Investments, One Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Counsel, at (202) 942–0572, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. Each Trust is an open-end management investment company registered under the Act and consists of several portfolios (''Portfolios''). SIMC is an investment adviser registered under the Investment Advisers Act of 1940 (the ''Advisers Act'') and is a wholly-owned subsidiary of SEI Investments Company. SIMC serves as investment adviser to the Portfolios. The assets of certain Portfolios (''Multi-Managed Portfolios'') are allocated by SIMC among two or more subadvisers (''Subadvisers''). Each Subadviser had discretion to purchase and sell securities for a discrete portion of a Portfolio's assets in accordance with the Portfolio's objectives, policies, and restrictions. Each Subadviser is registered under the Advisers Act or is exempt from registration under the Advisers Act. Each Subadviser is compensated based on a percentage of the value of assets allocated to that Subadviser. SIMC may directly advise a discrete portion of a Portfolio.

2. Applicants request relief to permit: (a) A portion of a Multi-Managed Portfolio (''Unaffiliated Portion'') to engage in principal transactions with a broker-dealer that is, or is an affiliated person of, a Subadviser to another portion of the Multi-Managed Portfolio (''Affiliated Broker-Dealer'') and to purchase securities in an underwriting in which an Affiliated Broker-Dealer acts as principal underwriter; (b) an Affiliated Broker-Dealer to provide brokerage services to an Unaffiliated Portion without complying with the requirements of subsections (b) and (c) of rule 17e–1 under the Act; (c) a portion of a Multi-Managed Portfolio advised by a Subadviser affiliated with the Affiliated Broker-Dealer (''Affiliated Subadviser'') to purchase securities during the existence of an underwriting syndicate, a principal underwriter of which is an Affiliated Subadviser or an affiliated person of an Affiliated Subadviser, in accordance with the conditions of rule 10f–3 under the Act, except that paragraph (b)(7) of the rule would not require the aggregation of purchases of the portion of the Portfolio affiliated with the Affiliated Subadviser (''Affiliated Portion'') with purchases by an Unaffiliated Portion; and (d) an Unaffiliated Portion to purchase securities issued by an Affiliated Subadviser, or an affiliated person of an Affiliated Subadviser, that is involved in securities-related activities, subject to the limits in rule 12d3–1 under the Act. The requested relief would apply only if the Affiliated Broker-Dealer is not an affiliated person or an affiliated person of an affiliated person of SIMC, the Subadviser making the investment decision with respect to the Unaffiliated Portion (''Unaffiliated Subadviser''),[1] or an officer, trustee, or employee of the Multi-Managed Portfolio engaging in the transaction.

3. Applicants request that the relief apply to any registered open-end management investment company or portfolio thereof for which SIMC, or any entity controlling, controlled by, or under common control with SIMC, currently or in the future acts as investment adviser. Applicants state that SIMC will take steps designed to ensure that any other existing or future entity that relies on the order will comply with the terms and conditions of the application.

Applicants' Legal Analysis

A. Principal Transactions Between an Unaffiliated Portion and an Affiliated Broker-Dealer

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company or an affiliated person of such affiliated person (''second-tier affiliate''). Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled by, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company. Applicants assert that an Affiliated Subadviser would be an affiliated person of a Multi-Managed Portfolio, and an Affiliated Broker-Dealer would be either an Affiliated Subadviser or an affiliated person of the Affiliated Subadviser, and, thus, a second-tier affiliate of a Multi-Managed Portfolio, including the Unaffiliated Portion. Accordingly, applicants state that any transactions to be effected by an Unaffiliated Subadviser on behalf of an Unaffiliated Portion of a Multi-Managed Portfolio with an Affiliated Broker-Dealer would be subject to the prohibitions of section 17(a).

2. Applicants seek relief under sections 6(c) and 17(b) to exempt

[1] The terms ''Unaffiliated Subadviser,'' ''Subadviser,'' and ''Unaffiliated Portion'' include SIMC and the discrete portion of a Multi-Managed Portfolio directly advised by SIMC, respectively, provided that SIMC manages its portion of the Multi-Managed Portfolio independently of the portions managed by the other Subadvisers to the Multi-Managed Portfolio, and SIMC does not control or influence any other Subadviser's investment decisions for its portion of the Multi-Managed Portfolio. SIMC does not currently manage any Multi-Managed Portfolio.

principal transactions prohibited by section 17(a) because an Affiliated Broker-Dealer is deemed to be an affiliated person or a second-tier affiliate of an Unaffiliated Portion solely because an Affiliated Subadviser is the Subadviser to another portion of the same Multi-Managed Portfolio. The requested relief would not be available if the Affiliated Broker-Dealer (except by virtue of serving as a Subadviser) is an affiliated person or a second-tier affiliate of SIMC, the Unaffiliated Subadviser making the investment decision, or any officer, trustee, or employee of the Multi-Managed Portfolio.

3. Section 17(b) of the Act authorizes the SEC to grant an order permitting a transaction other wise prohibited by section 17(a) if it finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company and the general purposes of the Act. Section 6(c) of the Act permits the SEC to exempt any person or transaction from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. For the reasons stated below, applicants submit that the terms of the proposed transactions meet the standards of sections 6(c) and 17(b).

4. Applicant contend that section 17(a) is intended to prevent persons who have the power to influence an investment company from using that influence to their own pecuniary advantage. Applicants assert that when a person acting on behalf of an investment company has no direct or indirect pecuniary interest in a party to a principal transaction, the abuses that section 17(a) is designed to prevent are not present. Applicants state that if an Unaffiliated Subadviser purchases securities on behalf of an Unaffiliated Portion in a principal transaction with an Affiliated Broker-Dealer, any benefit that might inure to the Affiliated Broker-Dealer would not be shared by the Unaffiliated Subadviser. In addition, applicants state that Subadvisers are paid on the basis of a percentage of the value of the assets allocated to their management. The execution of a transaction to the disadvantage of the Unaffiliated Portion would disadvantage the Unaffiliated Subadviser to the extent that it diminishes the value of the Unaffiliated Portion. Applicants further submit that SIMC's power to dismiss Subadvisers or to change the portion of a Portfolio allocated to each Subadviser reinforces a Subadviser's incentive to maximize the investment performance of its own portion of the Multi-Managed Portfolio.

5. Applicants state that each Subadviser's contract assigns it responsibility to manage a discrete portion of the Multi-Managed Portfolio. The contracts neither require nor authorize collaboration between or among Subadvisers. Each Subadviser is responsible for making independent investment and brokerage allocation decisions based on its own research and credit evaluations. Applicants state that SIMC does not dictate or influence brokerage allocation decisions for the Multi-Managed Portfolios, except where SIMC actually advises an Unaffiliated Portion of a Multi-Managed Portfolio. Applicants submit that, in managing a discrete portion of a Portfolio, each Subadviser acts for all practical purposes as though it is managing a separate investment company.

6. Applicants state that the proposed transactions will be consistent with the policies of each Multi-Managed Portfolio, since each Unaffiliated Subadviser is required to manage the Unaffiliated Portion of the Multi-Managed Portfolio in accordance with the investment objectives and related investment policies of the Multi-Managed Portfolio as described in its registration statement. Applicants also assert that permitting the transactions will be consistent with the general purposes of the Act and in the public interest because the ability to engage in the transactions will increase the likelihood of a Multi-Managed Portfolio achieving best price and execution on its principal transactions, while giving rise to none of the abuses that section 17(a) was designed to prevent.

B. Payment of Brokerage Compensation by an Unaffiliated Portion to an Affiliated Broker-Dealer

1. Section 17(e)(2) of the Act prohibits an affiliated person or a second-tier affiliate of a registered investment company from receiving compensation for acting as broker in connection with the sale of securities to or by the investment company if the compensation exceeds the limits prescribed by the section, unless otherwise permitted by rule 17e–1 under the Act. Rule 17e–1 sets forth the conditions under which an affiliated person or a second-tier affiliate of an investment company may receive a commission which would not exceed the ''usual and customary broker's commission'' for purposes of section 17(e)(2). Rule 17e–1(b) requires the investment company's board of directors, including a majority of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, to adopt procedures regarding brokerage compensation paid pursuant to the rule and to determine at least quarterly that all transactions effected in reliance on the rule complied with the procedures. Rule 17e–1(c) specifies the records that must be maintained by each investment company with respect to any transaction effected pursuant to rule 17e–1.

2. Applicants state that, for the reasons discussed above, Affiliated Broker-Dealers are second-tier affiliates of the Unaffiliated Portions. Applicants request relief under section 6(c) of the Act from section 17(e) of the Act and rule 17e–1 under the Act to the extent necessary to permit the Unaffiliated Portions of each Multi-Managed Portfolio to pay brokerage compensation to an Affiliated Broker-Dealer, when the Affiliated Broker-Dealer acts as broker in the ordinary course of business, without complying with the requirements of rule 17e–1(b) and (c) under the Act. The requested exemption would apply only where an Affiliated Broker-Dealer is deemed to be an affiliated person or a second-tier affiliate of an Unaffiliated Portion solely because an Affiliated Subadviser is the Subadviser to another portion of the same Multi-Managed Portfolio. The relief would not apply if the Affiliated Broker-Dealer is an affiliated person or a second-tier affiliate of SIMC, the Unaffiliated Subadviser to the Unaffiliated Portion of the Multi-Managed Portfolio, or any officer, trustee, or employee of the Multi-Managed Portfolio.

3. Applicants state the proposed brokerage transactions involve no conflicts of interest or possibility of self-dealing and will meet the standards of section 6(c). Applicants assert that the interests of an Unaffiliated Subadviser are directly aligned with the interests of the Unaffiliated Portion it advises, and an Unaffiliated Subadviser will enter into brokerage transactions with Affiliated Broker-Dealers only if the fees charged are reasonable and fair. Applicants also note that the Unaffiliated Subadvisers have a fiduciary duty to obtain best price and execution for the Unaffiliated Portion.

C. Purchases of Certain Securities by an Unaffiliated Portion

1. Section 10(f) of the Act, in relevant part, prohibits a registered investment company from knowingly purchasing or otherwise acquiring, during the existence of any underwriting or selling

syndicate, any security (except a security of which the company is the issuer) a principal underwriter of which is an officer, director, member of an advisory board, investment adviser, or employee of the company, or an affiliated person of any of the foregoing. Section 10(f) also provides that the SEC may exempt by order any transaction or classes of transactions from any of the provisions of section 10(f), if and to the extent that such exemption is consistent with the protection of investors. Rule 10f–3 under the Act exempts certain transactions from the prohibitions of section 10(f) if specified conditions are met. Paragraph (b)(7) of rule 10f–3 limits the amount of securities of any class of an issue to be purchased by the investment company, or by two or more investment companies having the same investment adviser, to 25% of the principal amount of the offering of the class of securities.

2. Applicants state that each Subadviser to a Multi-Managed Portfolio is considered to be an investment adviser to the entire Multi-Managed Portfolio. Therefore, all purchases of securities by an Unaffiliated Portion from an underwriting syndicate a principal underwriter of which is an Affiliated Broker-Dealer would be subject to section 10(f).

3. Applicants request relief under section 10(f) from that section to permit an Unaffiliated Portion to purchase securities during the existence of an underwriting or selling syndicate, a principal underwriter of which is an Affiliated Broker-Dealer. Applicants request relief from section 10(f) only to the extent those provisions apply solely because an Affiliated Subadviser is an investment adviser to the Multi-Managed Portfolio. The requested relief would not be available if the Affiliated Broker-Dealer is an affiliated person or a second-tier affiliate of SIMC, the Unaffiliated Subadviser making the investment decision with respect to the Unaffiliated Portion, or any officer, trustee, or employee of the Multi-Managed Portfolio. Applicants also seek relief from section 10(f) to permit an Affiliated Portion to purchase securities during the existence of an underwriting syndicate, a principal underwriter of which is an Affiliated Broker-Dealer, provided that the purchase will be in accordance with the conditions of rule 10f–3, except that paragraph (b)(7) of the rule will not require the aggregation of purchases by the Affiliated Portion with purchases by an Unaffiliated Portion.

4. Applicants state that section 10(f) was adopted in response to concerns about the ''dumping'' of otherwise unmarketable securities on investment companies, either by forcing the investment company to purchase unmarketable securities from its underwriting affiliate, or by forcing or encouraging the investment company to purchase the securities from another member of the syndicate. Applicants submit that these abuses are not present in the context of the Multi-Managed Portfolios because an Unaffiliated Subadviser's decision to purchase securities from an underwriting syndicate, a principal underwriter of which is an Affiliated Broker-Dealer, involves no potential for ''dumping.'' In addition, applicants assert that aggregating purchases would serve no purpose because there is no collaboration among the Subadvisers and any common purchases by an Affiliated Subadviser and an Unaffiliated Subadviser would be coincidence.

D. Purchases by Unaffiliated Subadvisers of Securities Issued by Securities Affiliates

1. Section 12(d)(3) of the Act generally prohibits a registered investment company from acquiring any security issued by any person who is a broker, dealer, investment adviser, or engaged in the business of underwriting (collectively, ''securities-related activities''). Applicants state that, because certain of the Affiliated Subadvisers or their affiliated persons may be issuers that are engaged in securities-related activities (''Securities Affiliates''), an Unaffiliated Portion would be prohibited by section 12(d)(3) from purchasing securities issued by Securities Affiliates of another Subadviser to the same Multi-Managed Portfolio.

2. Rule 12d3–1 under the Act exempts from the prohibition of section 12(d)(3) purchases of securities of an issuer engaged in securities-related activities if certain conditions are met. One of these conditions, set forth in rule 12d3–1(c), prohibits the acquisition of a security issued by the investment company's investment adviser, promoter, or principal underwriter, or any affiliated person of the investment adviser, promoter, or principal underwriter.

3. Applicants state that each Subadviser to a Multi-Managed Portfolio is considered to be an investment adviser to the entire Multi-Managed Portfolio. Thus, applicants state that a purchase by an Unaffiliated Portion of securities issued by Securities Affiliates of another Subadviser to the same Multi-Managed Portfolio would not meet rule 12d3–1(c) and that applicants are therefore unable to rely on the rule.

4. Applicants request an exemption under section 6(c) from section 12(d)(3) to permit an Unaffiliated Subadviers to acquire for an Unaffiliated Portion, securities issued by a Securities Affiliate subject to the limits in rule 12d3–1. The requested relief would apply only to securities issued by a Securities Affiliate that is an Affiliated Subadviser to another portion of the Multi-Managed Portfolio, or an affiliated person of an Affiliated Subadviser to another portion. The requested relief would not extend to securities issued by the Subadviser making the purchase, SIMC, or an affiliated person of any of these entities.

5. Applicants state that their proposal does not raise the conflicts of interest that rule 12d3–1(c) was designed to address because of the nature of the affiliation between an Affiliated Subadviser and the Unaffiliated Portion. Applicants submit that each Subadviser acts independently of the other Subadvisers in making investment and brokerage allocation decisions for the assets allocated to its portion of the Multi-Managed Portfolio. Applicants assert that prohibiting the Unaffiliated Portions from purchasing securities issued by a Securities Affiliate may cause Unaffiliated Subadvisers to forego investment opportunities that would be in the best interests of the Multi-Managed Portfolios.

Applicants' Conditions

Applicants agree that the requested order will be subject to the following conditions:

1. Each Multi-Managed Portfolio will be advised by an Affiliated Sub-Adviser and at least one Unaffiliated Subadviser and will be operated consistent with the manner described in the application.

2. No Affiliated Subadviser (except by virtue of serving as Subadviser to a discrete portion of a Multi-Managed Portfolio) or Affiliated Broker-Dealer will be an affiliated person or a second-tier affiliate of SIMC, any Unaffiliated Subadviser, or any officer, trustee, or employee of the Multi-Managed Portfolio engaging in the transaction.

3. No Affiliated Subadviser will directly or indirectly consult with any Unaffiliated Subadviser concerning allocation of principal or brokerage transactions or concerning the purchase of the securities issued by its Securities Affiliates. Subadvisers may consult with SIMC in order to monitor compliance with the limits in rule 12d3–1.

4. No Affiliated Subadviser will participate in any arrangement under which the amount of its subadvisory fees will be affected by the investment performance of any other Subadviser.

5. With respect to purchases of securities by an Affiliated Portion during the existence of an underwriting or selling syndicate, a principal underwriter of which is an Affiliated Broker-Dealer, the conditions of rule 10f–3 will be satisfied except that paragraph (b)(7) will not require the aggregation of purchases by the Affiliated Portion with purchases by an Unaffiliated Portion.

6. Each Multi-Managed Portfolio will comply with rule 12d3–1, except paragraph (c) of that rule solely with respect to purchases by an Unaffiliated Portion of securities issued by a Securities Affiliate that would be prohibited by rule 12d3–1(c) solely because the Securities Affiliate is an Affiliated Subadviser, or an affiliated person of an Affiliated Subadviser, to an Affiliated Portion of the Multi-Managed Portfolio.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–11226 Filed 5–4–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24429]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

April 28, 2000.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of April 2000. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, DC 20549–0102 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to a SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 23, 2000, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549–0609. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, N.W., Washington, DC 20549–0506.

Select Advisors Trust C [File No. 811–8404]

Summary: Applicant seeks an order declaring that is has ceased to be an investment company. On December 31, 1998, each series of applicant transferred its assets to Touchstone Series Trust (formerly known as Select Advisors Trust A) based on net asset value. Expenses of approximately $218,560 incurred in connection with the reorganization were paid by Touchstone Advisors, Inc., applicant's investment adviser.

Filing Date: The application was filed on February 7, 2000.

Applicant's Address: 311 Pike Street, Cincinnati, Ohio 45202.

Heritage U.S. Government Income Fund [File No. 811–7980]

Summary: Applicant seeks an order declaring that is has ceased to be an investment company. On October 15, 1999, applicant transferred its assets to Intermediate Government Fund, a series of Heritage Income Trust, based on net asset value. Expenses of $61,500 incurred in connection with the reorganization were paid by applicant's investment adviser, Heritage Asset Management, Inc.

Filing Date: The application was filed on April 7, 2000.

Applicant's Address: 800 Carillon Parkway, St. Petersburg, Florida 33716.

The Planters Funds—Tennessee Tax-Free Bond Fund [File No. 811–7065]

Summary: Applicant seeks an order declaring that is has ceased to be an investment company. By December 28, 1999, all shareholders of applicant had redeemed their shares at net asset value. No expenses were incurred in connection with applicant's liquidation.

Filing Dates: The application was filed on February 17, 2000, and amended on April 13, 2000.

Applicant's Address: 5800 Corporate Drive, Pittsburgh, Pennsylvania 15237–7010.

The Rodney Square Tax-Exempt Fund [File No. 811–4372]

The Rodney Square Fund [File No. 811–3406]

The Rodney Square Strategic Equity Fund [File No. 811–4808]

The Rodney Square Strategic Fixed-Income Fund [File No. 811–4663]

The CRM Funds [File No. 811–9034]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On October 31, 1999, each applicant transferred its assets to WT Mutual Fund, based on net asset value. Approximate expenses of $12,400; $73,540; $13,418; $7,565; and $5,587, respectively, incurred in connection with the reorganizations were paid by each applicant. Wilmington Trust Company, applicants' investment adviser, has agreed to reimburse The Rodney Square Strategic Equity Fund and The Rodney Square Strategic Fixed-Income Fund for expenses in excess of their expense caps.

Filing Date: Each application was filed on April 7, 2000.

Applicants' Address: Each of The Rodney Square Funds: 1100 N. Market Street, Wilmington, Delaware 19890. The CRM Funds: 400 Bellevue Parkway, Wilmington, Delaware 19809.

Harris & Harris Group, Inc. [File No. 811–7074]

Summary: Applicant requests an order declaring that it ceased to be an investment company as of July 27, 1995, the date applicant elected to be regulated as a business development company.

Filing Date: The application was filed on March 29, 2000.

Applicant's Address: One Rockefeller Plaza, 14 West 49th Street, New York, New York 10020.

Life & Annuity Trust [File No. 811–8118]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 5, 1999, the shareholders of applicant voted to approve the merger of applicant with another investment company. The name of the fund surviving the merger is Wells Fargo Variable Trust, and its Investment Company Act file number is 811–9255. Expenses of $144,638 were incurred in connection with the merger and were paid by Wells Fargo Bank, N.A., which has been the investment adviser to the fund for the past five years and is the investment adviser to the successor fund.

Filing Date: The application was filed on March 2, 2000.

Applicant's Address: 111 Center Street, Little Rock, Arkansas 72201.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–11225 Filed 5–4–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Security Benefit Life Insurance Company, et al.

April 28, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for an order under section 6(c) of the Investment Company Act of 1940 (''1940 Act''), as amended granting exemptions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder to permit the recapture of credit enhancements applied to the contract value of certain flexible premium deferred variable annuity contracts.

Summary of Application: Applicants seek an order under Section 6(c) of the 1940 Act, to permit, under specified circumstances, the recapture of certain credit enhancements (''Credit Enhancements'') applied to: (i) The Variflex Extra Credit contract (''Variflex Credit'' or ''Contract''), a flexible premium deferred variable annuity contract that Security Benefit issues through the Variflex Account: and (ii) other variable contracts and future variable contracts offered by the SBL Insurers and funded by the Separate Accounts or a Future Account (''Future Variable Contracts''), provided that the Future Variable Contract is substantially similar in all material respects to the Contract.

Applicants: Security Benefit Life Insurance Company (''Security Benefit''); First Security Benefit Life Insurance and Annuity Company of New York (''First Security Benefit''); SBL Variable Annuity Account VIII (Variflex Extra Credit) (''Variflex Account,'' and, together with any other separate account of Security Benefit or First Security Benefit supporting variable annuity contracts, collectively referred to as the ''Separate Accounts''); any other separate account that will be established in the future by Security Benefit or First Security Benefit to support variable annuity contracts (''Future Accounts'') issued by Security Benefit or First Security Benefit (collectively, the ''SBL Insurers''); and Security Distributors, Inc. (''SDI''), (collectively referred to herein as ''Applicants'').

Filing Dates: The Application was filed with the Commission on January 27, 2000, and amended and restated on March 22, 2000 and April 27, 2000.

Hearing or Notification of Hearing: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request personally or by mail. hearing requests should be received by the Commission by 5:30 p.m., on May 23, 2000, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Applicants, c/o Amy J. Lee, Esq., Associate General Counsel, Security Benefit Life Insurance Company, 700 Harrison Street, Topeka, KS 66636–0001.

FOR FURTHER INFORMATION CONTACT: Ronald A. Holinsky, Attorney, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the SEC, 450 Fifth Street NW Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. Security Benefit is a stock life insurance company organized under the laws of the state of Kansas. Security Benefit offers life insurance policies and annuity contracts, as well as financial and retirement services. It is authorized to conduct life insurance and annuity business in the District of Columbia and all states except New York. Together with its subsidiaries, Security Benefit has total funds under management of approximately $8 billion.

2. First Security Benefit is a stock life insurance company organized under the laws of the State of New York. First Security Benefit offers variable annuity contracts in New York and is admitted to do business in that state. First Benefit is a wholly-owned subsidiary of Security Benefit Group, Inc. (''Security Benefit Group''), a financial services holding company which is wholly-owned by Security Benefit.

3. Variflex Account was established on September 12, 1994 as a segregated asset account of Security Benefit and is registered with the Commission as a unit investment trust (File No. 811–8836). Security Benefit is the legal owner of the assets in Variflex Account. Variflex Account currently has 17 subaccounts. Each subaccount invests exclusively in shares of a specific series of the SBL Fund, an open-end management investment company for which Security Management Company, LLC, a wholly-owned subsidiary of Security Benefit, serves as investment adviser. Variflex Account funds the variable benefits available under Variflex Credit. Security Benefit has filed a registration statement on Form N–4 under the 1940 Act and the Securities Act of 1933, as amended (the ''1993 Act'') to register interests in the Variflex Account under Variflex Credit (File No. 333–93947).

4. SDI, an affiliate of Security Benefit, serves as the principal underwriter for the Variable Contracts issued by Security Benefit, including Variflex Credit. SDI is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934, as amended, and is a member of the NASD. SDI is a wholly-owned subsidiary of Security Benefit Group.

5. Variflex Credit is a flexible premium deferred variable annuity contract. Variflex Credit may be purchased as a non-tax qualified retirement plan for an individual, or on an individual basis, in connection with a retirement plan qualified under sections 403(b), 408, or 408A, of the Internal Revenue Code of 1986, as amended.

6. Variflex Credit offers a ''Credit Enhancement'' feature under which Security Benefit may add an amount to each contractholder's ''Contract Value'' [1] at the time of any purchase payment. Credit Enhancements are allocated among the subaccounts in the same proportion that the applicable purchase payment is allocated. The amount of any Credit Enhancement is based on the total purchase payments made into

[1] The term ''Contract Value'' refers to the total value of the Contract which includes amounts allocated to the Subaccounts and the Fixed Account as well as any amount set aside in the loan account to secure loans.

Variflex Credit less total withdrawals, including any withdrawal changes, from the Contract as of the date the purchase payment is applied. The percentage amounts are set forth in the table below:

Total purchase payments, less withdrawals and withdrawal charges	Credit enhancement (in percent)
Less than $10,000	0
At least $10,000 but no more than $1,000,000	4
$1,000,000 or more	5

7. The Variflex Credit provides for various withdrawal options, annuity benefits and payout annuity options, as well as transfer privileges among investment options.

8. The Variable Contracts issued by the SBL Insurers permit contractholders to cancel their Variable Contracts and to receive a refund during the Free-Look Period.

9. In most instances, a contractholder who returns the Variable Contract during the Free-Look Period will receive a refund of Contract Value plus any charges deducted from such Contract Value, minus the value of any Credit Enhancement.[2] Contractholders also receive a refund of any amounts that may have been deducted for state premium taxes and/or other taxes. The value of the Credit Enhancement, not the amount originally credited, id deducted if the Variable Contract is canceled using the Free-Look Period.

10. Variflex Credit provides for a death benefit upon the death of the contractholder prior to the annuity start date. The death benefit proceeds will be the death benefit reduced by any unpaid loan balance including loan interest (''Contract Debt''), any pro rata account charge and any uncollected premium tax. If a contractholder dies before the annuity start date, the amount of the death benefit generally will be the greater of: (i) The sum of all purchase payments (not including Credit Enhancements), less any reductions caused by previous withdrawals; or (ii) the Contract Value on the date due proof of death and instructions regarding payment are received by Security Benefit less any Credit Enhancements applied during the 12 months prior to the date of the contractholder's death.

11. Variflex Credit provides for withdrawal charge waivers upon a full or partial withdrawal in the event of confinement to a hospital or nursing facility or diagnosis of a terminal illness (''Eligible Withdrawal''). In the event of an Eligible Withdrawal, the contractholder would forfeit all or part of any Credit Enhancement applied during the 12 months preceding the withdrawal. The amount of Credit Enhancements to be forfeited is a percentage determined by dividing the amount of the Eligible Withdrawal by the total purchase payments made in the 12 months preceding that Eligible Withdrawal. For example, a withdrawal of $50,000 relative to $100,000 in purchase payments in the 12 months preceding the withdrawal would result in forfeiture of 50% of the Credit Enhancements applied during that 12 month period.

12. Applicants seek relief to: (1) Deduct from the death benefit the amount of any Credit Enhancement applied 12 months prior to the date of the contractholder's death; and (ii) deduct from an Eligible Withdrawal the amount of any Credit Enhancement applied 12 months before an Eligible Withdrawal. The requested relief would also apply to Future Variable Contracts that are substantially similar in all material respects to the Contracts.

Applicant's Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the 1940 Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the provisions of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants seek exemptive relief pursuant to section 6(c) from sections 2(a)(32), 22(c), and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder, to the extent necessary to permit the SBL Insurers to recapture: (1) The amount of any Credit Enhancement applied 12 months prior to the date of the contractholder's death from the amount of any death benefit; and (ii) the amount of any Credit Enhancement applied 12 months before an Eligible Withdrawal from the amount of that Eligible Withdrawal.

3. Subsection (i) of Section 27 of the 1940 Act provides that section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such separate account, except as provided in paragraph (2) of that subsection. Paragraph (2) provides that it shall be unlawful for such separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is redeemable security.

4. Section 2(a)(32) of the 1940 Act defines ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his or her proportionate shares of the issuer's current net assets, or the cash equivalent thereof.

5. Applicants state that a beneficiary's or contractholder's interest in the amount of a Credit Enhancement allocated to Contract Value is not vested until 12 months after the Credit Enhancement has been applied to the Variable Contract. Unless and until the beneficiary's and contractholder's interests in the amount of the Credit Enhancement have vested (*i.e.*, 12 months after it has been applied to the Variable Contract), Security Benefit retains a right and interest in the Credit Enhancement. Thus, when Security Benefit recaptures any Credit Enhancement, it is simply retrieving its own assets, and because a contractholder's interest in the Credit Enhancement is not vested, the contractholder is not deprived of a proportionate share of the net assets of the Separate Account.

6. Applicants state that because the amount paid as a death benefit does not include the amount of any Credit Enhancement applied to the Variable Contract 12 months prior to the date of death, the beneficiary arguably is not receiving the contractholder's proportionate share of the Separate Account's current net assets. Similarly, because the full or partial withdrawal amount of an Eligible Withdrawal results in the forfeiture of all or a portion of any Credit Enhancements applied during the 12 months preceding the Eligible Withdrawal, the contractholder arguably is not receiving his or her proportionate share of the Separate Account's current net assets. Applicants submit, however, that the recapture of the amount of any Credit Enhancement applied to the Variable Contract in the 12 months prior to the date of the contractholder's death or prior to an Eligible Withdrawal, as described herein, would not deprive a contractholder of his or her proportionate share of the issuer's current net assets. The prospectus clearly discloses that, for purposes of the death benefit, the beneficiary's interest in a Credit Enhancement will vest only if it has been added to Contract Value more than 12 months

[2] Under the laws of a number of states, if Free-Look rights are exercised, the sponsoring insurance company is required to refund purchase payments.

prior to the date of the contractholder's death.

As described above, the Contract provides that if a contractholder dies before the annuity start date, the amount of the death benefit generally will be the greater of: (i) The sum of all purchase payments (not including Credit Enhancements), less any reductions caused by previous withdrawals; or (ii) the Contract Value on the date due proof of death and instructions regarding payment are received by Security Benefit less any Credit Enhancements applied during the 12 months prior to the date of death.

Similarly, the Contract provides in relevant part that in the event of an Eligible Withdrawal, a contractholder would forfeit all or part of any Credit Enhancement applied 12 months before the Eligible Withdrawal, depending upon the amount of the Eligible Withdrawal relative to the total purchase payments made in the 12 months preceding that Eligible Withdrawal. Furthermore, since a contractholder's interest in the Credit Enhancement allocated to Contract Value is only vested 12 months after the Credit Enhancement has been applied to the Variable Contract, Security Benefit asserts that it is simply retrieving its own assets when recapturing any Credit Enhancement when it pays a death benefit or in connection with an Eligible Withdrawal.

7. Applicants content that annuity contracts, unlike life insurance contracts, are not intended to insure against the risk of premature death. Instead, annuity contracts are intended to provide an income stream to the contractholder or a named beneficiary, for the life of the annuitant or for a period of years. The risk to an insurer under an annuity contract typically is that the annuitant lives longer than the insurer's prediction.

8. Applicants assert that if Credit Enhancements are applied to the death benefit under an annuity contract before a minimum period of time has elapsed from the time that a Credit Enhancement has been credited, the insurer runs the risk of adverse selection. Similarly, the insurer runs the risk of adverse selection if Credit Enhancements are applied to withdrawals not subject to a withdrawal charge due to the confinement of the insured to a hospital or nursing facility or diagnosis of a terminal illness, unless a minimum period of time has elapsed from the time that a Credit Enhancement has been credited. With respect to the death benefit, the insurer runs the risk that, for example, a terminally ill contractholder will make a large purchase payment in order to leverage the amount of money he or she is able to transfer to the beneficiary. With respect to the withdrawal charge waiver due to the confinement of the contractholder to a hospital or nursing facility or diagnosis of a terminal illness, the insurer runs the risk that, for example, a contractholder will make a large purchase payment in order to leverage the amount of money he or she is able to apply to medical care payments. SBL believes that requiring a year to elapse before a Credit Enhancement may be included in a death benefit or in an Eligible Withdrawal is an appropriate means to ensure that the Variable Contracts are not used as a risk-free vehicle to leverage the amount of money someone may wish to transfer to a beneficiary or to a medical care facility.

9. Section 22(c) of the 1940 Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by section 22(a). Rule 22c–1 thereunder prohibits a registered investment company issuing a redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except as a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

10. Applicants state that Security Benefit's recapture of the Credit Enhancement in instances in which: (i) Fewer than 12 months have elapsed between the time that the Credit Enhancement has been applied to the Contract, and the death of the Contractholder; or (ii) fewer than 12 months have elapsed between the time that the Credit Enhancement ;has been applied to the Contract, and an Eligible Withdrawal, might arguably be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the applicable subaccount of a Separate Account. In other words, because any such Credit Enhancement paid by Security Benefit is immediately added, on a conditional basis, to the Contract Value of certain contractholders, and further because these amounts are allocated to certain subaccounts for the benefit of the contractholder, the net asset value of each subaccount arguably is affected by these credits.

11. Applicants contend, however, that the recapture of the Credit Enhancement under the circumstances summarized herein should not be deemed to be a violation of section 22(c) and Rule 22c–1. To the extent that the recapture practices summarized herein are considered to be technical violations of these provisions. Applicants respectfully request relief from section 22(c) and Rule 22c–1 in order to recapture Credit Enhancements as discussed above for Contracts and Future Variable Contracts provided within 12 months of: (i) The contractholder's death before the annuity start date; or (ii) an Eligible Withdrawal.

12. Applicants content that the recapture of the Credit Enhancement does not involve either of the practices that Rule 22c–1 was intended to eliminate or reduce as far as reasonably practicable, namely: (i) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption or repurchase at a price above it; and (ii) other unfair results, including speculative trading practices.

13. Applicants argue that the proposed recapture of the Credit Enhancement poses no threat of dilution. To effect a recapture of a Credit Enhancement, Security Benefit redeems (and other SBL Insurers will redeem) interests in a contractholder's subaccounts at a price determined on the basis of the current accumulation unit value of each of the subaccounts of the Separate Account in which the contractholder's Contract Value is allocated. The amount recaptured in the event of a death benefit, or an Eligible Withdrawal, will be equal to the amount of the Credit Enhancement paid out of the assets of Security Benefit. That amount will be redeemed at the current accumulation unit value of the applicable subaccount(s) as of the date of receipt of the death claim, or withdrawal request, in proper order. Thus, Applicants assert that no dilution will occur upon the recapture of a Credit Enhancement. Applicants further submit that the second practice that Rule 22c–1 was designed to address, namely, speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Credit Enhancement. However, to avoid any uncertainty as to full compliance with the 1940 Act, Applicants request an

exemption from the provisions of section 22(c) and Rule 22c–1 to the extent deemed necessary to permit them to recapture the Credit Enhancement that is or will be made available under the Variable Contracts and Future Variable Contracts.

Conclusion

Applicants submit that their request for an order for the exemptive relief described above is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act, and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–11224 Filed 5–5–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42732; File No. SR–Amex–00–24]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Rule 2(a) of the Rules of Procedure Applicable to Exchange Disciplinary Proceedings

April 28, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2000, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange provided written notice to the Commission on April 20, 2000, that it intended to file this proposal. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 2(a) of the Rules of Procedure Applicable to Exchange Disciplinary Proceedings for purposes of authorizing the Chief Hearing Officer (or the Deputy Chief Hearing Officer) at the National Association of Securities Dealers Regulation, Inc. (''NASDR'') Office of Hearing Officers to appoint NASDR hearing officers to act as Chairmen of Amex disciplinary panels. The text of the proposed rule change is below. New language is italics.

K. Exchange Disciplinary Proceedings

Rule

Rule 02(a). Selection of Hearing Officers

Whenever the Chairman of the Exchange shall be advised that a charge or charges have been served upon a member, member organization, approved person, or a registered or non-registered employee or prospective employee of a member or member organization, or that a written stipulation of facts and consent to a specified penalty has been entered into between any such person or persons and an officer of the Exchange, or that a member or member organization has been suspended or expelled from any other securities exchange or any national securities association, or has been suspended or barred from being associated with any member of such exchange or association, or has been suspended or barred by any governmental securities agency from dealing in securities or being associated with any broker or dealer in securities and such member or member organization has not consented in writing to similar action by the Exchange, or that an employee or prospective employee of a member or member organization has been suspended or expelled from any other securities exchange or any national securities association, or has been suspended or barred from being associated with any member of such exchange or association, or has been suspended or barred by any governmental securities agency from dealing in securities or being associated with any broker or dealer in securities and such employee or prospective employee has not consented in writing to similar action by the Exchange, the Chairman, *(or such person(s) as the Chairman may designate with Board approval),* shall select, from among hearing officers appointed to serve on Exchange Disciplinary Panels, one such hearing officer to act as a chairman of a Disciplinary Panel which shall conduct a hearing with respect to such matter and take such action as may be authorized pursuant to the Constitution and rules of the Exchange.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis, for, the Proposed Rule Change

1. Purpose

Under Article V, Section 1(b)(2) of the Amex Constitution, the Chairman of the Board, subject to the approval of the Board, designates Exchange Officials and other persons to serve on the Hearing Board. Those who are designated to serve on the Hearing Board make up a pool of persons who can be asked to serve as members of disciplinary panels in Exchange disciplinary proceedings. Under Article V, Section 1(b)(3), the Chairman, again subject to Board approval, designates one or more hearing officers, who have no Exchange duties or functions relating to the investigation or preparation of disciplinary matters, to act as Chairmen of Amex disciplinary panels.

These two pools of people (*i.e.,* the people who serve as members of disciplinary panels, and the people who act as Chairmen of the disciplinary panels) are approved on an annual basis at the Board's organization meeting each January. Rule 2(a) of the Rules of Procedure Applicable to Exchange Disciplinary Proceedings then requires the Amex Chairman, each time an Amex disciplinary proceeding is initiated, to select the specific hearing officer that will chair that particular Amex disciplinary panel.

Last year, the Amex entered into a formal agreement with the National Association of Securities Dealers (''NASD'') under which the NASDR's Office of Hearing Officers provides hearing officers to chair all Amex disciplinary panels. The hearing officers are responsible for fulfilling the panel chair's duties as set forth in the Amex Constitution and Rules. The NASD has followed the above described procedure under Rule 2(a) with respect to the selection of a hearing officer to chair each Amex disciplinary panel, obtaining the approval of the Amex Chairman in each instance.

Amex proposes to amend Rule 2(a) to expedite the selection process by authorizing the Amex Chairman, or such person(s) as the Chairman may designate with Board approval, to

appoint in each instance the specific hearing officer that will chair each Amex disciplinary panel. The Amex Board has approved this amendment and specifically authorized the Chief Hearing Officer (or the Deputy Hearing Officer) at the NASDR's Office of Hearing Officers, as the Amex Chairman's designee, to appoint NASDR hearing officers to chair Amex disciplinary panels. The Exchange is amending Rule 2(a) for the sole purpose of streamlining the process for selecting hearing officers. The Exchange believes the amendment will provide for more efficient administration of Amex disciplinary proceedings.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [6] in general and furthers the objectives of Section 6(b)(6) [7] in particular in that it is intended to assure that Exchange members and member firms are appropriately disciplined for rule violations.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex believes the proposed rule change will impose no burden on competiton.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR–Amex–00–24 and should be submitted by May 26, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–11227 Filed 5–4–00; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] In reviewing this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42729; File No. SR–GSCC–99–05]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Formation of the European Securities Clearing Corporation

April 28, 2000.

On November 16, 1999, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–GSCC–99–05) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on January 5, 2000.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

Under the rule change, GSCC seeks Commission approval to become an initial shareholder and to serve on the board of directors of the European Securities Clearing Corporation (''ESCC''). ESCC will be a new entity formed under the laws of the United Kingdom by GSCC, the Euroclear Clearance System Societe Cooperative (''Euroclear''), and the London Clearing House (''LCH''). ESCC will be owned equally by GSCC, Euroclear, and LCH.[3]

ESCC's main role will be to oversee the scope and nature of the netting services being offered through LCH's RepoClear.[4] It is intended that ESCC will be governed by its market participant users, which are expected to be major participants in the European fixed-income marketplace. GSCC's involvement in ESCC will be a governance role that should help ensure, among other things, that RepoClear will draw upon GSCC's experience and knowledge and will have United States-style features such as single-ticket data input, settlement of contracts at current market value, the facilitation of substitutions, and the admission of inter-dealer brokers.

GSCC's role in ESCC will further help to ensure that the RepoClear service will use, to the extent appropriate, GSCC's mark-to-market and margining methodologies to provide comprehensive, uniform risk

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 42279, (December 28, 1999), 65 FR 541.

[3] In 1998, GSCC's board of directors requested that GSCC explore the possibility of providing in Europe the types of comparison, netting, and risk management services that GSCC provides in the United States. GSCC originally planned to provide these services through a joint venture with Euroclear and its operator Morgan Guaranty Trust Company of New York, Brussels Branch. Specifically, GSCC and Euroclear had planned to use J.P. Morgan Benelux, S.A., an existing Morgan subsidiary, as the netting vehicle that would have been renamed the European Securities Clearing Corporation. In a separate development, LCH was also asked by its members to provide these same services in Europe. In response, in April 1999 LCH began offering its RepoClear service through which LCH provides netting services for European sovereign debt repo transactions. To achieve greater efficiency, GSCC, Euroclear, and LCH have agreed that it would be more efficient to provide the services for European sovereign debt purchases and repo transactions through a single netting vehicle, RepoClear.

[4] In accordance with the agreement between GSCC, Euroclear, and LCH, LCH will transfer control of RepoClear to ESCC. For a description of LCH's RepoClear, see note 3.

management processes. GSCC intends to help ensure that: (i) Processing efficiencies will be attained through the utilization of standardized SWIFT message formats for input and output; (ii) participants' margin requirements will be reduced through cross-margining both their European Government securities activity and their combined United States and European activity; [5] (iii) participants' balance sheets will be reduced and they will experience increased capital utilization through a maximization of the offsets available from repo and reverse repo activity; (iv) the RepoClear service will support global electronic trading systems which will allow for more efficient settlement of side-by-side cash and futures activities through coordinated mark-to-market and margining processes, standardized clearance and settlement practices, and optimized cross-margining of correlated positions.

II. Discussion

Section 17A(b)(3)(F) [6] of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. For the reasons set forth below, the Commission believes that GSCC's proposed rule change is consistent with GSCC's obligations under the Act.

GSCC's participation in ESCC as a shareholder and a member of the board of directors should help to ensure that ESCC is able to provide both to United States organizations operating abroad, either directly or through their European affiliates, and to non-United States organizations a clearance and settlement system that provides for the prompt and accurate clearance and settlement of buys and sells and repo transactions involving European sovereign debt instruments. GSCC's participation in ESCC should also foster cooperation and coordination between itself, Euroclear, and LCH, all of which are major providers of clearance and settlement services.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–99–05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–11254 Filed 5–4–00; 8:45 am]

BILLING CODE 8010–01–M

[5] The proposed cross-margining arrangement will be the subject of a separate rule filing by GSCC in the future. GSCC, Euroclear, and LCH intend to work toward implementing the cross-margining arrangement by early 2001.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42370; File No. SR–ISE–00–02]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the International Securities Exchange LLC Relating to Its Fee Schedule

April 28, 2000.

I. Introduction

On February 25, 2000, the International Securities Exchange LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a fee schedule.

The proposed rule change was published for comment in the **Federal Register** on March 6, 2000.[3] No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

ISE's proposed fee schedule itemizes fees for the services it will offer to its members and others. This schedule includes membership fees, trading fees, and fees for a variety of other services, including the installation and maintenance of certain equipment. ISE stated in its proposal that it intends to use revenues from these fees to recover its costs of operating a trading market and to build a reserve for future needs. ISE further stated that it does not intend to use these fees to generate an operating profit to distribute to its members, and will adjust its fees to maintain the appropriate balance between costs and expenses, as ISE gains experience in the operation of its market.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities exchange,[4] and in particular, with the requirements of section 6 of the Act.[5] Specifically, the Commission finds that the proposal is consistent with section 6(b)(4) of the Act.[6]

Under section 6(b)(4),[7] a registered national securities exchange must promulgate rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Commission finds that ISE's fee schedule is not unreasonable and should not discriminate unfairly among market participants.

IV. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–ISE–00–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–11229 Filed 5–4–00; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42473 (February 29, 2000), 65 FR 11818.

[4] In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

[7] *Id.*

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42734; File No. SR–NASD–00–25]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Extension of Time To Pass the Series 55 Examination, Equity Trader

April 28, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2000, the National Association of

Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, NASD Regulation, Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under section 19(b)(3)(A)(i) of the Act and Rule 19b–4(f)(1) thereunder, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of The Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend NASD Rule 1032(f) to change the date by which certain registered representatives who trade equity securities in the Nasdaq Stock Market (''Nasdaq'') and/or over-the-counter must pass the Series 55 Examination. The text of the proposed rule change is available at the offices of the NASD and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, And Statutory Basis for the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 2, 1998, the SEC approved File No. SR–NASD–97–221, which proposed amending NASD Rule 1032 to add an additional category of representative registration.[3] Specifically, Rule 1032(f) requires each registered representative who engages in proprietary or agency trades of equities, preferred securities, or convertible debt securities otherwise than on a securities exchange, or who directly supervises such activities (*i.e.,* functioning as an ''Equity Trader''), to register as a Limited Representative-Equity Trader. In order to register as a Limited Representative-Equity Trader, the representative must be registered as a General Securities Representative (Series 7) or as a Limited Representative-Corporate Securities (Series 62), and must pass the Series 55 Examination.[4] The rule contains an exemption for representatives whose principal trading activities involve executing orders on behalf of an affiliated investment company that is registered with the SEC under the Investment Company Act of 1940.

Rule 1032 affords certain registered representatives a two-year grace period, ending on May 1, 2000, to pass the Series 55 Examination. NASD Regulation believed this would provide such representatives sufficient time to pass the examination. Unfortunately, this has not been the case. It has come to NASD Regulation's attention that many registered representatives who are eligible for the two-year grace period will not pass the Series 55 Examination by May 1, 2000. If the deadline is not extended, these registered persons will be forced to cease certain trading activities, which could cause disruptions at NASD member firms and could cause harm to customers. NASD Regulation does not believe the markets or customers will be served by a strict application of this deadline. Consequently, NASD Regulation is proposing to extend the grace period for passing the examination. NASD Regulation is proposing that registered representatives who were eligible for the two-year grace period, but who failed to pass the Series 55 Examination, be given until October 1, 2000 to pass the examination. However, such representatives will not be permitted to function as Equity Traders after October 1, 2000 unless they receive passing scores on the Series 55 Examination.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[5] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the failure to extend the deadline to pass the Series 55 Examination will cause disruptions at some NASD member firms and could cause harm to customers. NASD Regulation does not believe the markets or customers will be served by a strict application of this deadline.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation represents that it does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NASD Regulation has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of The Proposed Rule Change And Timing for Commission Action

The proposed rule change is effective upon filing pursuant to section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(1)[7] thereunder, in that the proposed rule change is a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the

[3] Securities Exchange Act Release No. 39516, 63 FR 1520 (January 9, 1998).

[4] Representatives who have been ''grandfathered'' from taking the Series 7 or the Series 62 Examinations will not be required to take either examination in order to take the Series 55.

[5] 17 CFR 240.15Aj–1.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(1).

public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–00–25 and should be submitted by May 26, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–11255 Filed 5–04–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42727; File No. SR–NYSE–00–09]

Self-Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Amending Exchange Rule 123B

April 27, 2000.

I. Introduction

On February 28, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'', pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 123B. The proposed rule change was published for comment in the **Federal Register** on March 31, 2000. The Commission has received no comments on the proposal. This order grants accelerated approval to the proposed rule change.

II. Description of the Proposal

The Exchange seeks permanent approval of a pilot program that two amendments to Exchange Rule 123B. The first amendment to Rule 123B provides for the commission-free execution of all orders received by Exchange specialists through the SuperDOT system if such orders are executed within five minutes. The Exchange instituted the pricing initiative of commission-free executions beginning with trades executed on December 29, 1999.

A second amendment added language to Rule 123B to clarify that if an order that had been placed with the specialist is canceled and replaced, the replacement order is considered a new order for purposes of the Rule. Since the implementation of the pilot program, the Exchange is not aware of any problems associated with the program.

The Exchange is now proposing to make the pilot program with respect to commission-free executions and cancelled/replaced orders permanent.[3] The Exchange believes that the pilot program is operating successfully and requests permanent approval of the proposed rule change.[4]

III. Discussion

The Commission finds that the proposed rule change relating to commission-free executions and cancelled/replaced orders is consistent with the requirements of the Act. In particular, the Commission finds the proposal is consistent with Section 6(b)(5)[5] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change is also consistent with Section 11A(a)(1)(C)[6] of the Act which states that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure, among other things, economically efficient execution of securities transactions, and fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchanges.

The proposed rule change eliminating commissions on orders received through the SuperDOT system that are executed within a timely fashion furthers the Exchange's ability to compete effectively for order flow from other marketplaces. Competition between and among markets drives market intermediaries to provide more efficient services which, in turn, promotes a free and open market and benefits investors and the public interest. Investors and the public interest may also benefit from the accompanying reduction in transaction costs.[7]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. In addition to the reasons noted above, the Exchange has stated that the program is operating without problems. Because the pilot approval expires on April 26, 2000, accelerated approval of this filing will permit the Exchange to continue its program for commission-free execution of orders received through SuperDOT permanently and without interruption, and will resolve the treatment of cancelled and replaced orders.

IV. Conclusion

It Is Therefore Ordered, pursuant to 19(b)(2) of the Act,[8] that the proposed rule change (SR–NYSE–00–09) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–11228 Filed 5–04–00; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice Number 3280]

International Telecommunication Advisory Committee Radiocommunications (ITAC–R); Notice of Meeting

The International Telecommunications Advisory Committee—Radiocommunications provides policy and technical advice to the department on matters concerning radiocommnuication in preparation for United States participation in international meetings and conferences.

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that it approved these two amendments to Exchange Rule 123B on a pilot basis on November 30, 1999. *See* Exchange Act Release No. 42184 (November 30, 1999), 64 FR 68710 (December 8, 1999), File No. SR–NYSE–99–40. A third amendment to Exchange Rule 123B relating to execution reports of stopped orders was also proposed and approved by the Commission. However, the Exchange decided not to implement this third amendment due to capacity and resource limitations. *See* letter from James E. Buck, Senior Vice President and Secretary. Exchange, to Richard Stasser, Assistant Director, Division of Market Regulation, Commission, dated February 25, 2000. In this proposed rule change, the Commission provided notice of the modified pilot program instituting only two out of the three amendments originally proposed in SR–NYSE–99–40.

[4] On March 22, 2000, the Commission also approved on an accelerated basis the Exchange's request to extend the pilot program relating to commission-free executions and cancelled/replaced orders until April 26, 2000. *See* Exchange Act Release No. 42694 (April 17, 2000), 65 FR 24245 (April 25, 2000), File No. SR–NYSE–00–13.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78k–1(a)(1)(C).

[7] In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

A meeting of the ITAC–R will be held Thursday, May 11, 2000, in room 1912, at the Department of State. The purpose of the meeting is to provide information and obtain advice, as appropriate, concerning the World Radiocommunication Conference underway May 8–June 2, 2000, in Istanbul, Turkey. The department apologizes for such short notice necessitated by changes in the chairman's schedule.

Members of the general public may attend these meetings. Entrance to the Department of State is controlled; people intending to attend any of the ITAC. Meetings should send a fax to (202) 647–7407 not later than 24 hours before the meeting. This fax should display the name of the meeting and date of meeting, your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: U.S. driver's license, passport, U.S. Government identification card. Enter from the C street lobby; in view of escorting requirements, non-government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Dated: May 2, 2000.

Brian K. Ramsay,

Telecommunications Officer, Office of Multilateral Affairs, U.S. Department of State.

[FR Doc. 00–11408 Filed 5–3–00; 2:45 pm]

BILLING CODE 4710–45–P

TENNESSEE VALLEY AUTHORITY

Production of Tritium for the United States Department of Energy, Rhea and Hamilton Counties, TN

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Issuance of Record of Decision and Adoption of Final Environmental Impact Statement for the Production of Tritium in a Commercial Light Water Reactor (CLWR) prepared by the U.S. Department of Energy (DOE).

SUMMARY: This Record of Decision (ROD) is provided in accordance with the Council on Environmental Quality (CEQ) regulations found at 40 CFR parts 1500 to 1508 and TVA procedures implementing the National Environmental Policy Act.

TVA has decided to enter into an interagency agreement with DOE under The Economy Act (31 U.S.C. 1535) to provide irradiation services for producing tritium in TVA light water reactors. These reactors are Watts Bar Nuclear Plant Unit 1, Rhea County, Tennessee and Sequoyah Nuclear Plant Units 1 and 2, Hamilton County, Tennessee. The TVA Board of Directors passed a resolution approving the interagency agreement on December 15, 1999.

The environmental impacts of producing tritium in these reactors as well as in TVA's Bellefonte Nuclear Plant Units 1 and 2, Jackson County, Alabama were assessed in a 1999 Final Environmental Impact Statement (EIS) for the Production of Tritium in a Commercial Light Water Reactor (DOE/EIS–0288) prepared by DOE. TVA was a cooperating agency in the preparation of this EIS. Under 40 CFR 1506.3(c) of the CEQ regulations, TVA has independently reviewed the EIS prepared by DOE and found it to be adequate and with this notice is adopting the EIS, including the preferred alternative.

FOR FURTHER INFORMATION CONTACT: Greg Askew, P.E., Senior NEPA Specialist, Tennessee Valley Authority, 400 West Summit Hill Drive, mail stop WT 8C, Knoxville, Tennessee, 37902; telephone 865–632–6418; or e-mail gaskew@tva.gov.

SUPPLEMENTARY INFORMATION:

Background

DOE's Mission and the Nation's Tritium Need

The U.S. Department of Energy (DOE) is responsible for supplying nuclear materials for national security needs and ensuring that the nuclear weapons stockpile remains safe and reliable. Tritium, a radioactive isotope of hydrogen, is an essential component of every weapon in the current and projected U.S. nuclear weapons stockpile. Unlike other nuclear materials used in nuclear weapons, tritium decays at a rate of 5.5 percent per year. Accordingly, as long as the Nation relies on a nuclear deterrent, the tritium in each nuclear weapon must be replenished periodically. At present, the U.S. nuclear weapons complex does not have the capability to produce the amounts of tritium that will be required to support the Nation's current and future nuclear weapons stockpile.

In recent years, international arms control agreements have caused the U.S. nuclear weapons stockpile to be reduced in size. Reducing the stockpile has allowed DOE to recycle the tritium removed from dismantled weapons for use in supporting the remaining stockpile. However, due to the decay of tritium, the current inventory of tritium will not meet national security requirements past approximately 2005. Therefore, the most recent Presidential direction, contained in the 1996 Nuclear Weapons Stockpile Plan and an accompanying Presidential Decision Directive, mandates that new tritium be available by approximately 2005.

In December 1995, DOE issued a Record of Decision (ROD) (60 FR 63878) for the Final Programmatic Environmental Impact Statement for Tritium Supply and Recycling (DOE/EIS–0161). In this ROD, DOE decided to pursue a dual-track approach on the most promising tritium-supply alternatives: (1) to initiate purchase of an existing commercial reactor (operating or partially complete) or irradiation services with an option to purchase the reactor for conversion to a defense facility; and (2) to design, build, and test critical components of an accelerator system for tritium production. Under the dual-track approach described in the December 1995 ROD issued by DOE, the agency was to select within 3 years one of these two technologies as the primary source of tritium.

Production of Tritium in a Commercial Light Water Reactor

The production of tritium in a CLWR is technically straightforward and requires no elaborate, complex engineering development and testing program. All the Nation's supply of tritium has been produced in reactors. Most existing commercial pressurized water reactors utilize 12-foot-long rods containing an isotope of boron (boron-10) in ceramic form. These rods are sometimes called burnable absorber rods. The rods are inserted in the reactor fuel assemblies to absorb excess neutrons produced by the uranium fuel in the fission process for the purpose of controlling power in the core at the beginning of an operating cycle.

DOE's tritium program has developed another type of burnable absorber rod in which neutrons are absorbed by a lithium aluminate ceramic rather than boron ceramic. While the two types of rods function in a very similar manner to absorb excess neutrons in the reactor core, there is one notable difference: When neutrons strike the lithium aluminate ceramic material in a tritium producing burnable absorber rod (TPBAR), tritium is produced. This tritium is captured almost instantaneously in a solid zirconium material in the rod, called a ''getter.'' The solid material that captures the tritium as it is produced in the rod is so effective that the rod will have to be heated in a vacuum at much higher temperatures than normally occur in the operation of a light water reactor to

extract the tritium for eventual use in the nuclear weapons stockpile.

These TPBARs would be placed in the same locations in the reactor core as the standard burnable absorber rods. There is no fissile material (uranium or plutonium) in the TPBARs. Depending upon tritium needs, up to as many as 2,400 TPBARs could be placed in a CLWR for irradiation.

TVA's National Defense Role

TVA has a history of supporting national defense programs. The preamble to the TVA Act of 1933 identifies national defense as one of the purposes for its enactment. Further, the TVA Act in Sections 15(h) and 31 declares that the Act should be liberally construed to aid TVA in discharging its responsibilities for the advancement of national defense and other statutory purposes. In compliance with that Congressional mandate, TVA has supported the Nation's defense efforts on numerous occasions.

TVA constructed hydroelectric plants in record time to supply electric power to key defense industries during World War II including aluminum production and Manhattan Project activities at Oak Ridge, Tennessee. TVA produced phosphorus and ammonium nitrate for explosives and munitions during World War II and the Korean conflict. From 1952 to 1957, TVA, under an agreement with the Department of the Army, operated and maintained the Phosphate Development Works (PDW) complex at which various phosphorus based chemical agents were produced. From 1985 to 1988, under a contract with the Department of Defense, the PDW was refurbished to process and purify the Department of Defense's remaining stock of methyl phosphonic dichloride, a chemical agent component. TVA continues to support defense missions today with the cleanup of chemical and munitions production and storage sites as well as stabilization or disposal of surplus chemical weapons stockpiles.

The Procurement Process

The DOE issued a request for proposal RFP DE-RP02–97DP00414 on June 3, 1997 to all nuclear utilities to obtain a fixed price bid for irradiation services with an option to lease or purchase a facility, if necessary, in one or more commercial light water reactors. TVA responded to the RFP on September 15, 1997 with 2 offers:

(1) An Economy Act Proposal [1] for completion of one unit at the Bellefonte Nuclear Plant with Watts Bar Nuclear Plant Unit 1 as a backup facility. This proposal is referred to as the Bellefonte Revenue Sharing Offer.

(2) A commercial proposal responsive to the RFP to provide irradiation services using Watts Bar Unit 1. This proposal is referred to as the Watts Bar Irradiation Services Offer.

On November 16, 1998, DOE requested TVA to revise and resubmit a stand alone proposal for the purchase of irradiation services from TVA's operating plants at Watts Bar and Sequoyah. On December 8, 1998, TVA submitted a revised Watts Bar Nuclear Plant/Sequoyah Nuclear Plant Services Offer as a commercial proposal for irradiation services using Watts Bar Unit 1 and one unit at Sequoyah for backup and surge production capacity.

On December 22, 1998, Energy Secretary Bill Richardson announced that tritium production in one or more CLWRs would be the primary tritium supply technology and that the accelerator would be developed, but not constructed, as a backup to CLWR tritium production. Secretary Richardson further stated that the Watts Bar and Sequoyah reactors had been designated as the preferred alternative for CLWR tritium production. At the same time, Secretary Richardson also requested that TVA negotiate an interagency agreement under the Economy Act for irradiation services using Watts Bar Unit 1 and one unit at Sequoyah.

Alternatives Considered

TVA submitted the only responsive proposal to DOE's RFP as part of the procurement process described above. As a result, the following five TVA reactors were the only reactors considered in developing alternatives.

- Watts Bar Nuclear Plant Unit 1, Rhea County, Tennessee
- Sequoyah Nuclear Plant Units 1 and 2, Hamilton County, Tennessee, and
- Bellefonte Nuclear Plant Units 1 and 2, Jackson County, Alabama.

One or more of these reactors could be used to produce the tritium necessary to meet national security requirements. Therefore, scenarios comprising various combinations of the five TVA reactors were considered reasonable alternatives the impacts of which were addressed in the EIS. The transportation of irradiated TPBARs from the reactor to the DOE Savannah River Site for processing is also a part of each alternative.

TVA's No Action alternative to the use of CLWRs for tritium production is the continued operation of Watts Bar Unit 1 and Sequoyah Units 1 and 2 and the deferral of construction activities necessary for completion of Bellefonte units 1 and 2 as nuclear units.

Preferences Among Alternatives

DOE's considerations included a desire for low capital cost (low first cost). Also, there is uncertainty in DOE's long-term tritium production requirement with pending ratification of the Strategic Arms Reduction Treaty (START II) by Russia and potential future treaty negotiations. These factors favored selection of a flexible approach not requiring an immediate major commitment of resources by DOE such as would be required for completion of Bellefonte Nuclear Plant Unit 1. Therefore, DOE's preferred alternative was the combination of existing reactors at Watts Bar and Sequoyah Nuclear Plants.

Environmental and Other Considerations of the Decision

Environmental Considerations

The EIS considered two environmentally-distinct sets of alternatives: (1) Alternatives involving the use of only existing operating reactors at Watts Bar and Sequoyah Nuclear Plants, and (2) alternatives that included the completion and startup of the unfinished Bellefonte Nuclear Plant Unit 1 or Units 1 and 2.

Described below are the relative differences in environmental impacts between tritium production in operating CLWRs (Watts Bar Unit 1 and Sequoyah Units 1 and 2 are used in the analysis) and an incomplete CLWR (Bellefonte Unit 1). For an incomplete CLWR, the environmental analysis attributes all of the impacts from completing construction and operating the plant to the tritium production mission.

Construction Impacts

For tritium production in a CLWR, construction impacts would range from none (for operating CLWRs) to minor (for a CLWR which is currently approximately 90 percent complete, and would only require internal modifications). The predominant construction impact associated with an incomplete CLWR would be on socioeconomics, as approximately 4,500 direct jobs and 4,500 indirect jobs could be created during the peak year of construction. The creation of

[1] Because both TVA and DOE are Federal agencies, an interagency agreement may be reached via the Economy Act (31 U.S.C. 1535). The Economy Act is a Federal law that allows two government agencies to enter into an interagency agreement similar to the contractual agreement that a Federal agency would enter with a non-Federal party through the competitive procurement process. The Federal procurement process for the CLWR program explicitly allows for an interagency agreement via the Economy Act.

approximately 9,000 total jobs would have a significant positive impact on the economic area surrounding the incomplete reactor. By contrast, use of an existing CLWR would have no socioeconomic impacts. For all alternatives, the environmental impacts associated with construction are considered small.

Operating Impacts

For an operating CLWR, there would either be no impacts, or negligible impacts, to resources such as: land, infrastructure, noise, visual, air quality, water resources (use and quality), geology and soils, archeological and historic, and socioeconomics. Tritium production could cause additional impacts in the following resources: spent fuel generation; human health (normal operations and accidents); low-level radioactive waste (LLW) generation; and transportation.

For the alternative that would complete, start up, and operate an incomplete reactor, the operating impacts include those impacts associated with a new commercial nuclear power plant. The following resources would be affected: infrastructure (including visual resources); water resources; spent fuel generation; human health (normal operations and accidents); LLW generation; transportation; and socioeconomics.

Infrastructure

The production of tritium in an operating CLWR would have no impact on the local infrastructure. The impacts of operating a newly completed reactor would produce more than 1,200 megawatts of usable electric power. In an area such as the Tennessee Valley, this beneficial impact would tend to reduce the need for operation of coal-fired or gas-fired power plants, or could offset the need for additional power plants in the future, potentially reducing future air emissions. Although visual resources surrounding the incomplete reactor site would be negatively impacted by a cooling tower plume, this is not significant enough to change the plant's existing visual resource classification.

Spent Fuel

The operating reactors considered here each contain 193 fuel assemblies. At each refueling a percentage of these assemblies are removed from the reactor and placed in the reactor's spent fuel storage pool. The number of assemblies of spent fuel generated by an existing reactor could increase as a result of tritium production. Increases could range from approximately zero (0) to 60 spent fuel assemblies per cycle depending on the number of TPBARs loaded. The environmental impacts associated with long-term, on-site, dry-cask storage of spent fuel are not significant. For an incomplete CLWR, approximately 72 spent fuel assemblies would be generated during reactor operations without tritium production. Increases in spent fuel could range from zero (0) to approximately 69 additional spent fuel assemblies depending on the number of TPBARs loaded. In this regard, it is DOE's intention to minimize the generation of additional spent fuel by limiting the number of TPBARs inserted in a single reactor. Thus, operation of a newly completed reactor would generate the most spent fuel; by contrast, use of currently operating reactors could lead to a limited incremental increase in spent fuel.

Human Health (Normal Operations)

By adding tritium production to the currently operating reactors, there would be additional radiation doses to workers and the public from tritium production. The incremental increase in annual average worker dose is estimated at approximately 1.1 millirem, while the total population dose within 50 miles is estimated to increase by approximately 2.0 person-rem per year during normal operations. In terms of potential impacts, these values are not significant. For example, a 2.0 person-rem dose translates into a latent cancer fatality risk of 1 in 1,000 years. For the average worker, a 1.1 millirem annual dose translates to a risk to that worker of a latent cancer fatality every 2.3 million years.

By finishing the incomplete reactor and operating it to produce electricity and tritium, there would be radiation doses to workers and the public that do not currently occur. The average annual worker dose is estimated at a maximum of approximately 105 millirem, of which 104 millirem would result from operation of the reactor to produce electricity, and 1.1 millirem would be from tritium operations. The annual total population dose within 50 miles is estimated to be a maximum of approximately 2.3 person-rem. In terms of potential impacts, these values are not significant. For example, a 2.3 person-rem dose translates into a latent cancer fatality risk of 1 in 870 years. A 105 millirem annual dose translates to a risk to an average worker of a latent cancer fatality every 23,000 years. Radiological impacts for normal operations are considered small for all alternatives. Use of an operating CLWR would have the smallest impact to workers.

Human Health (Accidents)

The CLWR EIS provides a detailed evaluation of impacts from accidents on a site-specific basis for the CLWR reactor alternatives. The CLWR EIS documents that the potential impacts from tritium production on accident impacts is small. For design-basis accidents at operating reactors, the risk of a latent cancer fatality to an average individual from tritium production in the 50-mile population surrounding a CLWR would be approximately 1 in 480 million years. At the incomplete reactor site, this risk would be approximately 1 in 1.3 billion years. For beyond design-basis accidents, tritium production would result in very small changes in the consequences of an accident. This is due to the fact that the potential consequences of such an accident would be dominated by radionuclides other than tritium. At the operating reactors, the additional risks to the 50-mile population from adding tritium production would be less than one additional cancer per every 7,100 years from a beyond design-basis accident. At the incomplete reactor site, the total risk of the new reactor and the added tritium mission to the 50-mile population would be approximately 1 latent cancer fatalities per 5,500 years from a beyond design-basis accident. The risks associated with accidents are small for all the CLWR tritium production alternatives.

Low-Level Radioactive Wastes

Low level waste (LLW) generation at the operating reactors could increase by 0.43 cubic meters annually as a result of tritium production. TVA may store this LLW onsite for the life of the plant. The newly completed reactor would generate approximately 40 cubic meters of LLW annually which may also be stored onsite for the life of the plant. Although all of the waste generation impacts are acceptable, the use of currently operating reactors would generate the smallest amount of low-level wastes from tritium production. For all alternatives, the environmental impacts of all waste types, including low-level waste would be small and manageable with existing facilities.

Socioeconomics

Little or no socioeconomic impact is expected by adding the tritium production mission at an operating CLWR. Operation of a newly completed CLWR would add approximately 800 direct and 800 indirect jobs. The socioeconomic impacts of the 1,600

total jobs would have a positive impact on the economic area surrounding the reactor site. Operation of a newly completed reactor would have the greatest positive socioeconomic impacts, while use of currently operating CLWRs to produce tritium would involve insignificant socioeconomic impacts.

Transportation

There will be impacts associated with transporting irradiated TPBARs from the reactor sites to the Tritium Extraction Facility (TEF) at the Savannah River Site (SRS). There would be up to approximately 13 shipments of TPBARs annually to SRS which would result in an annual human health risk, over the entire route of the shipments, of less than 1 latent cancer fatality every 100,000 years. The impact on any one individual would be less than that. All the transportation impacts are negligible.

No environmental commitments or mitigation were identified for the preferred alternative. A substantial radiological monitoring program for public exposure and all environmental media (air, water and land) is an established component of existing operations at the Watts Bar and Sequoyah Nuclear Plants. This existing program will identify any increases in radiological releases and impacts that may result from tritium production.

Other Considerations

TVA's Support of National Defense

TVA's decision to produce the Nation's tritium on an ''at cost'' basis under an Economy Act agreement reflects TVA's continuing willingness to support the national defense. TVA's historic and contemporary defense roles are described above under TVA's National Defense Role. Both alternatives would further TVA's commitment to national defense by producing the requisite quantities of tritium.

Regulatory and Licensing Issues

The Bellefonte alternatives would have to be licensed as a new nuclear power plant. The plant's initial NRC operating license would also permit tritium production. Since the process is likely to take 5 years, the Bellefonte alternative has the potential to impact the project schedule but would not affect the national security because initial tritium production could begin with the Watts Bar reactor.

For the alternatives using existing CLWRs, NRC would have to amend the operating licenses of the Watts Bar and Sequoyah reactors to permit tritium production. TVA expects that NRC would be in a position to act upon the amendment requests well in advance of the planned October 2003 start of irradiation.

Environmentally Preferable Alternative

The alternatives involving the completion and operation of one or both of the Bellefonte units would cause greater environmental impacts than the alternatives using existing operating reactors at Watts Bar and Sequoyah. This greater impact of alternatives using the Bellefonte reactors would result from their construction and operation as nuclear units which would be made possible by their concurrent use for tritium production. Based on these additional impacts that would be caused by completing and operating the Bellefonte units, TVA considers the use of the Watts Bar and Sequoyah reactors for tritium production as the environmentally preferable alternative.

Dated: April 24, 2000.

John A. Scalice,

Chief Nuclear Officer and Executive Vice President.

[FR Doc. 00–11222 Filed 5–4–00; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Report on Trade Expansion Priorities Pursuant to Executive Order 13116 (''SUPER 301'')

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative (USTR) is providing notice that it submitted the report on U.S. trade expansion priorities published herein to the Committee on Finance of the United States Senate and Committee on Ways and Means of the United States House of Representatives pursuant to the provisions (commonly referred to as ''Super 301'') set forth in Executive Order No. 13116 of March 31, 1999.

DATES: The report was submitted on May 1, 2000.

FOR FURTHER INFORMATION CONTACT: Demetrios Marantis, Associate General Counsel, Office of the U.S. Trade Representative, 600 17th Street, NW, Washington, DC 20508, 202–395–9626.

SUPPLEMENTARY INFORMATION: The text of the USTR report is as follows.

Identification of Trade Expansion Priorities Pursuant to Executive Order 13116 April 30, 2000

The United States Trade Representative (USTR) submits to Congress this year's ''Super 301'' report pursuant to Executive Order 13116 of March 31, 1999. The Executive Order directs the USTR to review U.S. trade expansion priorities and identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent. This report builds on the 2000 National Trade Estimate (NTE) Report on Foreign Trade Barriers (released on March 31, 2000) and complements the ''Special 301'' (intellectual property rights) and ''Title VII'' (government procurement) reports.

The USTR prepared this report in close consultation with other U.S. Government agencies. After reviewing the 2000 Trade Policy Agenda, the 2000 NTE Report, public comments submitted to USTR, and information received from U.S. Embassies abroad, these agencies have identified the Administration's top U.S. trade expansion priorities for 2000. USTR has also determined that a number of countries have failed to fully implement certain multilateral commitments and, accordingly, has decided to pursue enforcement action in the World Trade Organization (WTO). Finally, although USTR is not identifying any ''priority foreign country practice'' in this Report, the Administration has focused on a number of practices which may warrant future enforcement action.

I. Trade Expansion Priorities for 2000

Over the past eight years, this Administration has promoted a strong trade policy premised on open markets and the rule of law. The Administration's trade policy achievements have contributed to strong economic growth, rising living standards, increased investment, and industrial growth. Looking forward, further expansion of trade will remain crucial to continued growth and technological progress. In this regard, USTR identifies below its top trade expansion priorities for 2000.

A. Complete China's Accession to the WTO

This year's top trade expansion priority is to complete China's accession to the WTO and secure approval of permanent Normal Trade Relations (NTR) status for China. The economic liberalization and opening to the world

China will make as part of its WTO accession will support reform in China, create opportunities for China's trading partners, and ultimately help to stabilize peace in the Pacific. From the perspective of the trading system, a status quo in which the world's third-largest economy does not need to follow WTO rules is an enormous source of distortion and uncertainty.

This Administration made a monumental step in the direction of China's accession last November by reaching a bilateral agreement with China on WTO accession. This Agreement secures broad-ranging, comprehensive concessions on China's part, granting the United States substantially greater market access across the spectrum of industrial goods, services, and farm products. The Agreement covers tariff and non-tariff barriers to U.S. exports of industrial goods, agricultural products and services. Specific rules address import surges, anti-dumping and subsidies practices and requirements for export performance, local content, offsets, and technology transfer. These commitments are specific and enforceable through WTO dispute settlement, U.S. trade laws, and other special mechanisms, including periodic multilateral review of China's compliance with its commitments.

Beyond our bilateral agreement, securing China's accession this year will require action, first by those WTO members which have yet to complete their own negotiations with China, and second by the entirety of the WTO's membership on WTO rules issues. As part of this process, the United States must grant China unconditional (*e.g.*, permanent) NTR or risk losing the full benefits of the agreement that was negotiated, including special import protections, and the right to enforce China's commitments through WTO dispute settlement. All WTO members, including the United States, pledge to give one another unconditional NTR so that we may enjoy the WTO benefits available in one another's markets.

Permanent NTR, in terms of our policy toward China, is no real change. NTR is simply the tariff status we have given China since the Carter Administration; and which every Administration and every Congress over the intervening 20 years has reviewed and found, even at the periods of greatest strain in our relationship, to be in our fundamental national interest. If Congress were to refuse to grant permanent NTR, our Asian and European competitors will reap the benefits of the agreement we negotiated with China, but American farmers and businesses may well be left behind.

B. Secure Enactment of Legislation Promoting Trade in Certain Regions

Greater market access for the poorest countries remains essential to integrating less developed regions into the world economy on an equitable basis. As the President stressed in his State of the Union Address, the United States is prepared to do this unilaterally by securing passage this year of legislation further opening U.S. markets to goods from Africa and the Caribbean. This is of fundamental importance to growth and sustainable development for the people of these regions, and will also help these regions become better markets for U.S. products.

In this regard, one of our principal policy goals for the year 2000 is passage of the African Growth and Opportunity Act and Caribbean Trade Enhancement. This legislation has received bi-partisan Congressional support, and should see final action soon. Enactment of these measures would provide increased market access for products from reforming sub-Saharan African countries. This legislation would also institutionalize an annual U.S.-sub-Saharan Africa Trade and Economic Cooperation Forum and encourage the establishment of funds and guarantees to support private sector and infrastructure development in Africa.

In the Caribbean and Central America, this legislation would strengthen the partnerships that exist between the U.S. and Caribbean Basin firms in the textile and apparel sector. It would also improve the competitiveness of apparel assemblers from the Caribbean and Central America vis-a-vis assembly operations in other parts of the world that do not use U.S. fabric and other inputs to the same extent.

Offering additional trade benefits to Southeast Europe is also an important component of the Administration's efforts, in conjunction with the European Union (EU) and other multilateral institutions, to bring stability and economic development to Southeast Europe. The Administration has transmitted to Congress legislation that would provide the authority to establish duty-free treatment of certain imports from the countries and territories of Southeast Europe on the basis of specific criteria for a period of five years. Full utilization of the additional duty-free treatment would provide several of the countries of Southeast Europe with duty-free entry to the U.S. market for over 80 percent of their products. Serbia would be eligible for this treatment only if the President determined significant progress had been made in meeting several reform criteria and international obligations. This legislation has been introduced in the Senate, and the Administration supports its enactment this year.

C. Advance Negotiations for the Free Trade Area of the Americas

The 34 democracies in the Western Hemisphere are currently engaged in the historic mission to create the Free Trade Area of the Americas (FTAA). This process will eliminate tariffs and non-tariff barriers to trade in goods and services throughout the Hemisphere and establish a single set of rules for liberalized trade in the region, and fulfill a two-century old dream of a hemisphere united by a shared commitment to democracy, prosperity and mutual benefit. This commitment has already led to agreement on the adoption of specific business facilitation measures in the area of customs procedures, with implementation beginning this year. In addition, in November 1999, the 34 trade ministers agreed in Toronto to an ambitious negotiating agenda for the following 15 months, namely for each of the nine negotiating groups to prepare draft texts.

With the Third Summit of the Americas scheduled for April 2001 in Quebec, Canada, this year will be an intense year of negotiations. The agenda concentrates in four areas: Negotiating draft texts of the chapters of the Agreement by April 2001; carrying out a continuing program of business facilitation; addressing the views and concerns of civil society; and deepening the region's understanding of the implications and benefits of electronic commerce for our societies.

Ensuring that trade liberalization and environmental protection policies are mutually supportive is a key priority of the Administration. One important means of ensuring this is through environmental reviews of trade agreements, as reflected in the Executive Order on Environmental Review of Trade Agreements. Thus, the Administration has initiated its environmental review of the FTAA. This will help inform both the public and negotiators of the environmental considerations that must be taken into account as the United States formulates its negotiating positions. As we implement the principles of the White House Declaration of Environmental Trade Policy, the United States will also work with other stakeholders to address concerns including issues of worker rights, transparency, and consumer protection.

D. Pursue Multilateral Negotiations To Open World Markets to U.S. Exports

Over the past eight years, the Administration has made great progress toward open and fair world markets. However, this work is not yet done, and WTO members must focus on the negotiating agenda of the next decade. Under existing commitments made in the Uruguay Round, WTO members have opened formal negotiations to undertake further reforms and liberalization in agriculture and services—sectors in which the most distortions and barriers remain. The Administration intends to pursue progress in these areas in close consultation with Members of Congress, the private sector and other interested Americans. In this regard, on March 28, USTR published in the **Federal Register** a notice seeking comments from all interested parties as the United States begins the process of developing proposals for these negotiations.

The Administration has ambitious goals in these areas. In agriculture, the WTO Agreement on Agriculture provides the basis on which to pursue further meaningful reform. The United States is now working with other countries to ensure that negotiations focus on substantive reform proposals such as eliminating export subsidies; reducing tariffs; expanding market access opportunities for products subject to tariff rate quotas (TRQs), including better disciplines on the administration of those TRQs; reducing trade-distorting domestic support levels; and ensuring that the operation of agricultural state trading entities is more market-oriented.

In services, the United States is developing negotiating proposals for a wide range of sectors, including energy services, environmental services, audiovisual services, express delivery, financial services, telecommunications, professional services, private education and training, private healthcare, travel and tourism, and other sectors of great importance to the U.S. economy in particular, its high-tech sectors. Broadly speaking, U.S. objectives include further removing restrictions on services trade and ensuring non-discriminatory treatment.

Beyond these mandated negotiations, there is a host of other issues on the WTO's agenda which warrant attention. As examples, we must address market access concerns in non-agricultural products, electronic commerce, issues related to trade and the environment, trade and labor, trade facilitation, transparency in government procurement, and other topics as well. Thus, while there are a number of different options for proceeding with trade liberalization beyond agriculture and services, the United States is working to build consensus for a new Round. Building such a consensus is not a simple task. However, the goal can be achieved if WTO members prove willing to focus more fully on the shared benefits of success, and find the balance that allows us to move ahead.

E. Enhance Monitoring and Enforcement Efforts

Ensuring full implementation of our trade agreements remains one of this Administration's strategic priorities. Vigorous enforcement enhances our ability to get the maximum benefit from our trade agreements, ensures that we can continue to open markets, and builds confidence in the trading system. The United States has respected its own commitments in this regard and expects the same of its trading partners. Consequently, this Administration has devoted more attention and resources than ever before to ensuring that these agreements yield the maximum advantage in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open and predictable trading environment.

To carry out this work as effectively as possible, in particular with the prospect of enforcing our bilateral agreement with China on WTO accession, the Administration has added new personnel to carry out a larger enforcement workload, without compromising our efforts to negotiate further market access in key markets. The President has also announced a Trade Compliance Initiative, which would further strengthen the monitoring and enforcement capabilities of the Executive Branch and would add additional resources for those efforts.

II. Enforcing Trade Commitments and Resolving Disputes

Since 1993, the Administration has vigorously enforced U.S. rights by deploying all available trade enforcement tools. Through application of U.S. trade laws, and active use of WTO dispute settlement procedures, the Administration has effectively opened foreign markets to U.S. goods and services. The President has also used the incentive of preferential access to the U.S. market to encourage improvements in workers' rights and reform of intellectual property laws and practices in other countries. These enforcement efforts have resulted in major benefits to U.S. firms, farmers and workers.

In parallel with enforcement of U.S. trade laws, U.S. participation in the WTO has been instrumental to the progress made in enforcing the international commitments of our trading partners. By ratifying the Uruguay Round Agreements, which created the WTO on January 1, 1995, Congress took a step of immense significance: helping to expand the rule of law and strengthening our ability to enforce the commitments of U.S. trading partners. Since that time, the United States has been the world's most frequent user of WTO dispute settlement procedures, winning favorable settlements and panel victories in virtually all sectors, including manufacturing, intellectual property, agriculture, and services. Continued participation in the WTO by the United States therefore remains central to the efforts of this and future Administrations to ensure that Americans enjoy the full promise and benefit of international trade agreements.

With the WTO now five years old, the obligations contained in most of the Uruguay Round agreements have already entered into force. In particular, January 1, 2000, marked the expiration of the five-year transition periods granted to certain WTO members (particularly in less-developed countries) to phase-in key rules agreed in the Uruguay Round, such as those in the area of intellectual property, trade-related investment measures, customs valuation and industrial subsidies. There has been good progress in the implementation of and compliance with WTO commitments, particularly as a result of enforcement of U.S. trade law, activity in the various WTO oversight bodies, and successful dispute settlement activity. However, the United States remains concerned that certain trading partners are not yet fulfilling all of their WTO obligations.

A. Enforcement Successes

Securing compliance with WTO and other trade obligations has been a major success of this Administration. Efforts to promote compliance with the WTO agreements have taken place using three tools: (1) Enforcement of U.S. trade law; (2) the various WTO oversight bodies and (3) the WTO dispute settlement mechanism.

First, the panoply of U.S. trade tools (*e.g.,* Section 301, Section 1377, Special 301, Super 301, and Title VII) works in conjunction with bilateral and WTO mechanisms to promote compliance and to address problems that are outside the scope of the WTO and NAFTA. These tools have led to some important

implementation successes in the past year:

• Pursuant to *Section 301,* USTR successfully investigated and resolved a petition filed by the Border Waters Coalition Against Discrimination in Service Trade of certain Canadian practices affecting tourism and sport fishing. This investigation was announced as part of last year's *Super 301* report.

• *Section 1377* has produced enhanced implementation of WTO basic and value-added telecommunications commitments. For instance, as part of this year's Section 1377 process, Israel announced that it would terminate its discriminatory access charge on traffic between Israel and North America (see USTR News Release 00–25, April 4, 2000).

• *Special 301* has been used successfully by USTR to encourage many developing countries to make substantial progress toward full implementation of their TRIPS obligations. For details, see this year's Special 301 report on intellectual property rights.

• The 1999 *Super 301* Report provided the basis for WTO enforcement action against India (regarding automotive trade and investment measures) and for stepped-up enforcement activity in the area of customs valuation. The United States will pursue WTO consultations regarding the customs valuations practices of Brazil and Romania, consult bilaterally with Mexico, and closely monitor India's customs valuation practices.

• *Title VII* has enabled USTR to challenge the discriminatory procurement barriers of foreign governments. For instance, after being identified under Title VII in 1996 for failing to provide an adequate remedies system to challenge procurement decisions in the heavy electrical sector, Germany has since passed and implemented new legislation to reform its bid challenge system.

Second, WTO oversight bodies offer another important means of securing implementation of WTO commitments. WTO members have worked collectively in the array of WTO oversight bodies charged with monitoring implementation and surveillance of agreements and disciplines to monitor the commitments our trading partners have made, identify potential problems, and offer technical assistance or other expertise when necessary to help ensure compliance and implementation of commitments. The United States actively asserts its rights and pursues its interests through these mechanisms. For example:

• The *Committee on Agriculture* has remained an effective forum for raising agricultural trade issues of concern. The United States played a leading role in the Committee's activities, working with other countries to ensure broad-based compliance with WTO commitments on agriculture.

• The *Committee on Customs Valuation,* where more than 50 developing country members face individual deadlines for implementation of the Agreement on Customs Valuation. Some members have requested additional time to assume the Agreement's obligations in full. The United States and others, working through the Committee, have consulted with these members to craft individualized extension decisions which provide for benchmarked work programs toward full implementation, along with reporting requirements and specific commitments on other implementation issues important to U.S. export interests.

• In the *Committee on Technical Barriers to Trade,* the United States has expressed concerns about a range of foreign measures which could adversely affect trade or pose unnecessary trade barriers, *e.g.,* EU restrictions on the use of hushkitted and certain re-engined aircraft.

• In the *Committee on Balance of Payments (BOP) Restrictions,* the effective use of consultation procedures resulted in Nigeria's elimination of all BOP-justified restrictions such that, now, only four members continue to retain such measures.

• Finally, the *Trade Policy Review* process has been instrumental in the identification of potentially WTO-inconsistent practices in members' regimes, and provides a forum in which pressure can be brought to urge reform or elimination of such practices.

Third, the United States has used the WTO dispute settlement mechanism to ensure implementation of WTO commitments. U.S. dispute settlement activity has aimed not only at challenging existing barriers but also at preventing the future adoption of similar barriers around the world. In this regard, the United States continues to be the most active user of the WTO dispute settlement process and, in 1999, filed eight new complaints. These cases involve a variety of WTO-inconsistent trade barriers maintained by several different governments.

U.S. experience thus far indicates that the WTO dispute settlement process has been an effective tool in combating barriers to U.S. exports. Some key dispute settlement successes in the past year include:

• Agreement on expeditious elimination of India's import bans and other quantitative restrictions on 2,700 tariff lines of goods. This ruling will open new markets for U.S. producers of consumer goods, textiles, agricultural products, petrochemicals, high technology products, and other industrial products;

• Reduction of Canada's subsidized exports of dairy products. The WTO panel and Appellate Body rulings in this case prevent Canada from applying illegal export subsidies on dairy products, including butter and skimmed milk powder; stop Canada's evasion of its Uruguay Round agricultural trade obligations; and deter copycat subsidies in other countries;

• WTO ruling requiring withdrawal of Australia's subsidies on exports of automotive leather. If the United States cannot satisfactorily resolve this matter with Australia, the WTO Dispute Settlement Body will authorize the United States to suspend concessions with respect to products of Australia;

• Affirmation of the WTO right to suspend concessions with respect to certain products from the EU as a result of the EU's failure to lift its ban on imports of U.S. meat, as well as its adoption of a WTO-inconsistent banana-import policy;

• Elimination of Japanese restrictions on the imports of certain varieties of fruit, including apples and cherries; and

• Affirmation that Mexico's imposition of anti-dumping duties on the import of high fructose corn syrup from the United States was inconsistent with the requirements of the WTO Antidumping Agreement.

As important as favorable WTO rulings are early settlements, achieved without having to pursue litigation to completion. Some notable settlements include full enforcement of intellectual property rights in Sweden, elimination of tax discrimination against imported movies in Turkey, and market access for U.S. agricultural products in the Philippines and the EU.

B. Resolving Disputes

Despite these many successes, certain WTO members are not implementing their WTO obligations, including those that came due on January 1, 2000. The United States remains committed to engaging in discussions with its trading partners in a constructive spirit to find solutions to implementation problems, including in the respective WTO bodies charged with overseeing the rigorous technical aspects of implementation, and will use all multilateral tools

available to resolve such problems. In this connection, initiating WTO dispute settlement procedures may be the most effective means of achieving a resolution on a multilateral basis of some of these difficult issues. Accordingly, USTR has decided to resort to these procedures in the following cases:

• Brazil-Customs Valuation: The United States will request WTO consultations with Brazil regarding its system for verification of the declared values of imported goods, such as textile products. Brazil uses minimum reference prices both as a requirement to obtain import licenses and/or as a base requirement for import. In practice, this system works to prohibit the import of products with declared values below established minimum prices, and, as such, appears to violate provisions of the WTO Agreement on Customs Valuation, GATT 1994, and the WTO Agreement on Import Licensing Procedures. The United States has also actively participated as an interested third party in consultations requested by the EU on this issue.

• India-Measures Affecting Trade and Investment in the Motor Vehicle Sector: The United States will take the next step in its dispute with India and will request the establishment of a WTO dispute settlement panel to challenge the WTO consistency of Indian measures that apply to investment in the automotive industry. In order to obtain import licenses for certain motor vehicle parts and components, India requires manufacturing firms in the motor vehicle sector to achieve specified levels of local content, neutralize foreign exchange by balancing the value of certain imports with the value of exports of cars and components over a stated period, and limit imports to a value based on the previous year's imports. Considering these requirements inconsistent with India's obligations under the GATT 1994 and the TRIMS Agreement, the United States requested WTO consultations on June 2, 1999. These consultations—held on July 20, 1999—failed to resolve the dispute, and accordingly the United States intends to take the next step and litigate this issue before a WTO panel.

• Philippines-Measures Affecting Trade and Investment in the Motor Vehicles Sector: The United States will request WTO consultations with the Philippines on its motor vehicle policies. The Philippines imposes local content requirements on producers of motorcycles, automobiles and commercial vehicles which range from 13 to 45 percent (certain automobiles face a 40 percent requirement). There are also foreign exchange balancing requirements which range from 5 to 75 percent. The Philippines was required to remove these measures by January 1, 2000, unless additional time was granted by the WTO. On October 4, 1999, the Philippines made a formal request for an additional five years to bring these measures into compliance with its obligations under the Agreement. For these reasons, the Philippines appears to be in violation of the TRIMs Agreement. Additionally, other facets of the Philippines' motor vehicle policy will be reviewed to ensure their consistency with other WTO standards. The approximate size of the vehicle market in the Philippines in 1998 was 80,000 units (250,000 units including motorcycles). A large portion of the vehicles sold in the Philippines are produced locally. Motor vehicle parts sales into the Philippines are also reduced by these measures. The United States has actively pursued a resolution of this request through bilateral and multilateral meetings, and will continue to do so through the use of dispute settlement procedures.

• Romania-Customs Valuation: The United States will request WTO consultations with Romania regarding measures which establish minimum and maximum prices for certain imported products (such as poultry, eggs, fruits and vegetables, clothing, footwear, and certain distilled spirits) and procedures for investigating import prices when the declared value falls below the minimum import price. In such situations, the importer is required to pay, in addition to the duty based on the declared value, a ''guarantee'' deposit that is the difference between the duties of the maximum established price and that of the declared value. These practices appear to violate Romania's obligations under the WTO Customs Valuation Agreement, GATT 1994, as well as the WTO Agreement on Agriculture.

• Intellectual Property Rights: In addition, in the ''Special 301'' report on intellectual property rights, the USTR announces that the United States will pursue WTO dispute settlement in three intellectual property rights cases. The United States will request WTO consultations with Argentina regarding significant deficiencies in its patent regime. The United States will also consult with Brazil in the WTO regarding a longstanding narrow difference of views on interpretation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) that can only be resolved through WTO dispute settlement. The United States will also proceed to a WTO panel in an existing dispute with Denmark regarding enforcement of its intellectual property laws unless imminent progress is made.

III. Continued Monitoring of Certain Trade Practices

This report also identifies several trade practices of significant concern. While these practices do not yet warrant enforcement action, USTR will monitor closely developments with respect to these practices and could initiate bilateral or multilateral trade enforcement action as necessary.

EU-Airbus

The United States is extremely concerned about the ongoing subsidization of the Airbus consortium by EU Member State governments. Since the inception of Airbus in 1967, the Airbus member governments have provided massive subsidies to their respective member companies to aid in the development, production and marketing of the Airbus family of large civil aircraft, enabling Airbus to garner, according to the Airbus Chief Executive Officer, ''a 55 percent market share in 1999, after almost 50 percent in 1998.'' The Airbus partner governments have borne 75 to 100 percent of the development costs for all major lines of Airbus aircraft and provided other forms of support, including equity infusions, debt forgiveness, debt rollovers and marketing assistance. They have also provided funds to support the development of derivative versions of earlier Airbus aircraft models, such as the A330–200 and the A340–500/600. Some loans for Airbus programs, repayable from royalties on aircraft sold, have been effectively forgiven because projected sales did not materialize.

The Airbus governments continue to subsidize their member companies. The British government recently announced a commitment of $830 million to underwrite BAe System's participation in the development of a new Airbus project, the A3XX ''superjumbo'' aircraft. The French, German and Spanish governments are considering whether to extend A3XX funding to their producers as well. The recent announcement that the Italian company Finmeccanica may join both Airbus and the A3XX program raises new subsidy issues with regard to Italy, and the pending creation of a unified Airbus company creates serious concerns about possible debt forgiveness in all of the Airbus countries.

The United States believes that government support of Airbus raises serious concerns about Member State compliance with their bilateral and

multilateral obligations in this sector. The United States will closely monitor developments and will consider all options to ensure that these obligations are fully met.

India-Textiles

Under the December 31, 1994 U.S.-India Memorandum of Understanding (MOU) on Market Access for textile products, India committed to undertaking tariff bindings on a broad spectrum of such products. The United States also committed to provide India with ''relevant price information'' on products subject to the MOU. The United States has lived up to its commitments under the MOU. India, after a lengthy delay, has made some effort to bind textile tariffs. However, the items proposed to be bound generally are not items covered by the U.S.—India agreement, and the binding proposal is deficient in many respects. In addition, India has begun to apply alternative specific duties in the textile sector, which will have a significantly negative impact on potential U.S. exports. In so doing, India has apparently failed to take into account relevant data supplied by the United States. India's actions conflict with the objectives of the 1994 agreement, which called on both the United States and India to improve conditions for access into their markets for textile and apparel products. The United States will continue to work to ensure that India completes an acceptable, comprehensive tariff binding, in compliance with bilateral and WTO commitments, as soon as possible, and will take appropriate action as necessary.

Japan-Automotive Sector

The U.S.-Japan Automotive Agreement achieved initial progress in opening Japan's auto and auto parts market to U.S. and other foreign suppliers, but results over the last few years have been disappointing. Japan introduced new categories of service garages, removed shock absorbers, struts, trailer hitches, and power steering from the critical parts list, deregulated 23 standards and certification requirements and streamlined the type designation system, improved access to vehicle registration data, and took steps to ensure auto dealers that they are free to carry the products of competing manufacturers. Since 1997, however, the Japanese Government has remained reluctant to take additional meaningful steps to actively deregulate and fully open its automotive sector, or to create an environment that would help promote a more competitive market in this sector. The United States has called upon Japan to take additional, concrete market-opening and deregulatory actions to achieve the Automotive Agreement's objectives of ensuring continuing improvements in market access and sales opportunities in the Japanese automotive market. The United States is also consulting with U.S. industry, labor, Congress, NGOs, and other interested parties to develop a position on what type of follow-on agreement it should seek in light of the December 2000 expiration date of the current Automotive Agreement. The Administration hopes to work closely and cooperatively with Japan on this issue in the coming months.

Japan-Flat Glass

The U.S.-Japan Flat Glass Agreement, which expired on December 31, 1999, achieved some progress in opening Japan's flat glass market. For example, it resulted in Japan's adoption of energy conservation standards in the housing sector, boosting demand for high-value-added insulating glass produced by both Japanese and U.S. manufacturers. However, the Agreement's principal objective, opening Japan's flat glass distribution to non-Japanese manufacturers, remains unfulfilled. The Japanese Government's own data show that most Japanese distributors believe that foreign flat glass manufacturers offer equal or better prices, quality and service than Japanese manufacturers. Yet the world's four leading non-Japanese flat glass manufacturers, including two U.S. firms, still sell an insignificant amount of glass to Japan, with market share stuck at about five percent. The highly oligopolistic market structure and the tight control exerted by three Japanese manufacturers over the domestic glass distribution system though majority ownership, equity and financing ties, employee exchanges, and purchasing quotas remain the key barriers to market access in this sector. Japan's Fair Trade Commission has recently taken action to curb some of these practices in niche glass markets, but has not taken action in the broader glass market.

The United States continues to urge Japan to take concrete steps to open this market. Later this Spring, the United States and Japan are planning to hold a government/industry forum involving Japanese and U.S. industry representatives to share perspectives on the state of competition in Japan's flat glass market. Following this forum, the two governments will meet to discuss ways in which the two governments can work together to achieve an open and competitive flat glass market in Japan.

Korea-Motor Vehicle Policies

In October 1998, the U.S. and Korean Governments concluded a Memorandum of Understanding (MOU) and exchange of letters to settle a section 301 investigation initiated after USTR named Korea's motor vehicle policies as a ''priority foreign country practice'' in the 1997 Super 301 report. Under the 1998 MOU, Korea agreed to (1) bind in the WTO its 80 percent applied tariff rate at 8 percent; (2) lower some of its motor-vehicle-related taxes and eliminate others; (3) adopt a self-certification system by 2002; (4) streamline its standards and certification procedures; (5) establish a new financing mechanism to make it easier to purchase motor vehicles in Korea; and (6) actively and expeditiously address instances of anti-import activity and actively promote a better understanding of free trade and open competition.

While Korea has taken steps to implement provisions in the MOU, after two sets of detailed consultations and numerous other government-to-government exchanges, the U.S. Government and industry continue to have serious concerns about the lack of access to the Korean motor vehicle market, as demonstrated by unacceptably low foreign market share. The MOU provides for a significant increase in market access for foreign motor vehicles. In addition, there has not been meaningful restructuring of the Korean motor vehicle sector, *i.e.,* changes have yet to yield efficient, market-driven firms. Also, anti-import activity continues, and negative perception of foreign motor vehicles persists, including, for example, the perception that buying a foreign car is an unpatriotic act that could lead to tax audits. While the Korean Government has taken some steps to address these problems, some Korean Government officials, as well as Korean individuals outside of the government, have demonstrated a return to the past practice of discouraging the purchase and consumption of imported goods, including foreign motor vehicles. Finally, the U.S. Government has put the Korean Government on notice that some of its plans or policies on standards and taxes do not conform with the provisions in the MOU. The U.S. Government will continue to aggressively push for full and faithful implementation of the 1998 MOU and side letter.

Korea-Treatment of Foreign, Research-Based Pharmaceuticals

U.S. concerns about Korea's treatment of foreign, research-based pharmaceuticals have centered around (1) discrimination in the reimbursement pricing system; (2) lack of protection of intellectual property rights (IPR), particularly with respect to clinical data and patents; and (3) burdensome and non-science-based Korean regulatory requirements, particularly on the acceptance of foreign clinical test data, testing, and approval of new drugs. In response to multiple government-to-government exchanges, including at high levels, the Korean Government has made some changes to address U.S. concerns. Specifically, imported pharmaceuticals are now listed, as are domestic drugs, on Korea's national health insurance reimbursement schedule. Also, the Korean Government has introduced a new system to reimburse hospitals for drugs at actual transaction prices to eliminate the illegal hospital margins that were available only for domestic drugs. Finally, Korea has taken some minor steps to address U.S. concerns on data protection and regulatory issues.

However, serious questions remain regarding how the new reimbursement pricing system in Korea will treat foreign innovative drugs, and regarding whether Korea provides TRIPS-consistent data protection. Korean authorities have resisted committing to a system of ''linkage'' between health and IPR authorities that would prevent the launch into the Korean market of drugs that would infringe valid patents. Finally, new Korean regulations finalized in December 1999 do not conform to international guidelines on the acceptance of foreign clinical test data. Prior to December of last year, in communications with the U.S. Government, the Korean Government indicated that it would implement these guidelines. In fact, the final Korean regulations appear to perpetuate requirements for redundant clinical testing and fail to shorten and streamline Korea's drug approval process. The U.S. Government will continue discussions with the Korean Government until U.S. concerns are addressed.

Malaysia-Trade and Investment in Motor Vehicles

The United States will continue to monitor Malaysia's compliance with its WTO obligations in the motor vehicle sector. Malaysia imposes local content requirements on producers of motorcycles, automobiles and commercial vehicles (45 to 60 percent for passenger and commercial vehicles and 60 percent for motorcycles). Under the TRIMs Agreement, Malaysia was required to remove these measures by January 1, 2000 unless additional time was granted by the WTO. On December 29, 1999, Malaysia made a formal request for an additional two years to bring these measures into compliance with its obligations under the Agreement, but approval of this request has not been forthcoming. For these reasons, Malaysia appears to be in violation of the TRIMs Agreement. The approximate size of the automobile and commercial vehicle market in Malaysia in 1998 was 164,000 units. A large portion of the vehicles sold in Malaysia are produced locally. Motor vehicle parts sales into Malaysia are also reduced by these measures.

The United States hopes to receive increased interest from Malaysia in resolving this issue in a timely fashion. It will be important to increase the dialogue regarding the extension request made by the Malaysians. A meaningful first step will be for Malaysia to provide answers to a series of questions posed by several WTO members. The United States provided its questions on February 8, 2000 and on several occasions encouraged Malaysia to respond. Absent progress toward resolving Malaysia's request, we will need to consider alternate action to resolve this apparent violation. Additionally, other facets of Malaysia's motor vehicle policies will be reviewed to ensure their consistency with WTO obligations.

Mexico-Customs Valuation

The United States has requested bilateral consultations with the Government of Mexico regarding its use of reference prices for a wide range of imported products, including foods, distilled spirits, chemicals, paper, textiles, apparel, footwear, steel, hand tools, and appliances. Based on currently available information, effective May 1, 2000, companies importing affected products below the Government's minimum reference price must deposit cash in a designated Mexican financial institution (or arrange one of two alternative guarantees) to cover the difference in duties and taxes. This cash deposit requirement is to replace a bond requirement that has been in place for several years. These practices appear to violate a number of WTO agreements, including the WTO Agreement on Customs Valuation, GATT 1994, the WTO Agreement on Import Licensing Procedures, the Agreement on Preshipment Inspection, and the Agreement on Textiles and Clothing. If consultations underway do not result, in a timely manner, in Mexican policies which are in compliance with its international agreements, the United States will initiate WTO consultations.

Mexico-Nutritional Products

Mexican Health Ministry regulations require the inspection and approval of manufacturing facilities in order to sell nutritional products, such as low-dosage vitamins, in Mexico. However, Mexican authorities refuse to inspect U.S.-based manufacturing facilities. Denying U.S. exporters the ability to have their facilities inspected and approved on the same basis as their Mexican counterparts raises serious concerns about Mexico's adherence to its trade obligations under the NAFTA and the WTO. The United States has raised these concerns with Mexico and has requested further consultations with Mexico. If this problem is not resolved in a timely manner that will allow U.S. companies without Mexican-based production facilities to resume exporting nutritional products to Mexico, the United States will consider proceeding to dispute settlement.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

[FR Doc. 00–11289 Filed 5–4–00; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Noise Certification Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss noise certification issues.

DATES: The meeting will be held on May 18, 2000, at 10 a.m.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, 1400 K Street NW, Washington, DC

FOR FURTHER INFORMATION CONTACT: Ms. Angela. O. Anderson, (202) 267–9681, Office of Rulemaking (ARM–204), 800 Independence Avenue, SW, Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee (ARAC) to discuss noise certification issues. This meeting will be held May 18, 2000, at 10 a.m., at the General Aviation Manufacturers Association. The agenda for this meeting will include the presentation and vote on the NPRM from FAR/JAR Harmonization Working Group for Subsonic Transport Airplanes. Members of the public may obtain copies of this NPRM by contacting the person listed above under **FOR FURTHER INFORMATION CONTACT**

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present statements to the committee at any time. Written statements may be presented to the committee at any time by providing 16 copies to the Assistant Chair or by providing the copies at the meeting. If you are in need of assistance or require a reasonable accommodation for the meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, is requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on April 27, 2000.

Paul Dykeman,

Assistant Executive Director for Noise Certification Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 00–11326 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 196 Night Vision Goggle (NVG) Appliances and Equipment

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)–196 meeting to be held March 28–29, 2000, starting at 9:00 a.m. each day. The meeting will be held at RTCA Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: May 31: (1) Welcome and Introductory Remarks; (2) Agenda Overview; (3) Review/Approval of Previous Minutes; (4) Action Item Status Review; (5) Overview SC–196 Working Group (WG) Activities: (a) WG–1, Operational Concept/Requirements; (b) WG–2, Night Vision Goggles Minimum Operational Performance Standards; (c) WG–3, Night Vision Imaging System Lighting; (d) WG–4, Maintenance/Serviceability; (e) WG–5, Training Guidelines/Considerations; (6) WG Breakout Sessions. June 1: (7) Night vision Imaging Systems Terminology Review; (8) Technical Standard Order Process; (9) RTCA Ballot Process; (10) Risk and System Safety Assessment Discussion; (11) Working Group Breakout Sessions. June 2: (12) Status of SC–196 WG Activities; (a) WG–1, Operational Concept/Requirements; (b) WG–2, Night Vision Goggles Minimum Operational Performance Standards; (c) WG–3, Night Vision Imaging System Lighting; (d) WG–4, Maintenance/Serviceability; (e) WG–5, Training Guidelines/Considerations; (13) Other Business; (14) Establish Agenda for Next Meeting; (15) Date and Location of Next Meeting; (16) Workgroup Breakout Sessions; (17) Working Group Chairpersons Meeting; (18) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 1, 2000.

Jane P. Caldwell,

Designated Official.

[FR Doc. 00–11327 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2000–7315]

Notice of Request for Renewal of Five Currently Approved Information Collections

AGENCY: Department of Transportation, Federal Highway Administration (FHWA).

ACTION: Notice and request for public comments.

SUMMARY: In accordance with the requirements in section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to renew its clearances for the five currently approved FHWA collections of information identified below under Supplementary Information.

DATES: Comments must be submitted on or before July 5, 2000.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington DC 20590–0001. Commenters should refer to the OMB control number to specify the information collection they are commenting on. All comments received will be available for examination at the above address between 10 a.m. to 5 p.m., et., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

Public Comments Invited

Interested parties are invited to send comments regarding any aspect of these five information collections, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burdens; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the requests for OMB's clearance of the following five collections of information.

SUPPLEMENTARY INFORMATION: (1) *Title:* Federal-aid Highway Construction Equal Employment Opportunity.

OMB Control Number: 2125–0019 (Expiration Date: December 31, 2000).

Affected Public: State highway agencies.

Abstract: Title 23, part 140(a), requires the FHWA to ensure equal opportunity regarding contractors' employment practices on Federal-aid highway projects. To carry out this requirement the contractors must submit to the State highway agencies an annual report providing employment

work force data, which includes the number of minorities, women, and non-minorities in each construction craft. This information is reported on Form PR–1391, Federal-aid Highway Construction Contractors Summary of Employment Data. The statute also requires the State highway agencies to submit a report to the FHWA summarizing the data entered on the PR–1391 forms. This summary data is provided on Form PR–1392, Federal-aid Highway Construction Contractors Summary of Employment Data. The FHWA uses this data to identify patterns and trends of employment in the highway construction industry, and to determine the adequacy and impacts of the FHWA's contract compliance and on-the-job training programs.

Estimated Annual Burden: The FHWA estimates the total annual burden hours imposed on the public by this collection is 6,580 hours; *i.e.,* 2,080 hours is required by the 52 State highway agencies to complete and submit the Form PR–1392, and an additional 4,500 hours is required for 4,500 Federal-Aid contractors to complete and submit the Form PR–1391.

Number of Respondents: 52.

For Further Information Contact: Ms. Carmen Sevier, (202) 366–1595, Department of Transportation, Federal Highway Administration, Civil Rights Service Business Unit, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

(2) *Title:* Statement of Materials and Labor Used by Contractor on Highway Construction Involving Federal Funds.

OMB Control Number: 2125–0033 (Expiration Date: November 30, 2000).

Affected Public: State highway agencies and Federal-aid highway contractors.

Abstract: The State highway agencies and contractors who work on highway projects are required to submit data regarding the usage of materials and labor in highway construction (23 CFR 635.126). This data is submitted to the FHWA on Form FHWA–47, Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds. Title 29 U.S.C. 2 authorizes the Department of Labor (DOL) to collect the labor-related information using its own forces or by getting the information from other Federal agencies. An informal agreement has been reached for the FHWA to collect the desired data for DOL. The data is used by the FHWA for estimating current material usage and cost distribution on Federal-aid highway construction contracts to aid in planning for future requirements based on anticipated program levels. The information is also used by the Department of Labor in its studies on the highway construction industry's labor and materials requirements, and by the industry, including the materials suppliers. This information is made available to other Federal, State and local agencies, universities, businesses, and industry for their own uses.

Estimated Annual Burden: The FHWA estimates that the total annual burden imposed on the public by this collection is 7,475 hours; *i.e.,* approximately 650 State highway agencies and Federal-Aid highway contractors complete and submit an average of 2.3 reports on Form FHWA–47 yearly; and the estimated time to complete each report is 5 hours.

Number of Respondents: 650.

FOR FURTHER INFORMATION CONTACT: Ms. Claretta Duren, (202) 366–4636, Department of Transportation, Federal Highway Administration, Infrastructure Core Business Unit, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

(3) *Title:* Developing and Recording Costs for Utility Adjustments.

OMB Control Number: 2125–0519 (Expiration Date: November 30, 2000).

Affected Public: State highway agencies and public utilities.

Abstract: Under 23 U.S.C. 123, the FHWA reimburses the State highway agencies when they have paid the costs of utility facilities' relocations that are required by the construction of Federal-aid highway projects. The FHWA requires the utilities to document the costs for adjusting their facilities. The utilities must have a system for recording labor, materials, supplies and equipment costs incurred when undertaking adjustments to accommodate the highway projects. This record of costs forms the basis for payment by the State highway agency to the utility and in turn the FHWA reimburses the State for its payment to the utility. The utilities are required to maintain these records of costs for three years after final payment is received.

Estimated Annual Burden: The FHWA estimates that this collection imposes a total annual burden on the public of 180,000 hours; *i.e.,* approximately 9,000 reimbursable utility adjustments are made yearly by approximately 3,000 utility firms. The average amount of time required by these firms to calculate the adjustment costs and maintain the required records is 20 hours.

Number of Respondents: 3,000.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scott, (202) 366–4104, Department of Transportation, Federal Highway Administration, Infrastructure Core Business Unit, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

(4) *Title:* Utility Use and Occupancy Agreements.

OMB Control Number: 2125–0522 (Expiration Date: October 31, 2000).

Affected Public: State/local highway authorities and public utilities.

Abstract: Under 23 U.S.C. 116, the FHWA requires the State and/or local highway authorities to maintain the highway rights-of-way including the control of its use by the utilities. In controlling the utilities' use of the highway rights-of-way the State/local highway authorities are required to document the terms under which the utility is to cross or otherwise occupy the highway rights-of-way. This documentation, consisting of a use and occupancy agreement (permit), must be in writing and must be maintained in the State/local highway authority's files for a three-year retention period.

Estimated Annual Burden: The FHWA estimates that the total annual burden imposed on the public by this collection is 552,000 hours; *i.e.,* nearly 4,600 State/local highway authorities are each involved in an average of 15 use and occupancy agreements per year, and the estimated amount of time required by these entities to process the permits is 8 hours.

Number of Respondents: 4,600.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scott, (202) 366–4104, Department of Transportation, Federal Highway Administration, Infrastructure Core Business Unit, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

(5) *Title:* Developing and Recording Costs for Railroad Adjustments.

OMB Control Number: 2125–0521 (Expiration Date: October 31, 2000).

Affected Public: State highway agencies and railroad companies.

Abstract: Under 23 U.S.C. 130, the FHWA reimburses the State highway agencies when they have paid for the cost of projects that (1) eliminate hazards at railroad/highway crossings, or (2) adjust railroad facilities to accommodate the construction of highway projects. The FHWA requires the railroad companies to document their costs incurred for adjusting their

facilities. The railroad companies must have a system for recording labor, materials, supplies, and equipment costs incurred when undertaking the necessary railroad work. This record of costs forms the basis for payment by the State highway agency to the railroad company, and in turn FHWA reimburses the State for its payment to the railroad company.

Estimated Annual Burden: The FHWA estimates that the total annual burden imposed on the public by this collection is 18,400 hours; *i.e.,* nearly 115 railroad companies are involved in an average of 10 railroad/highway projects per year, and the average number of hours required to calculate the railroad adjustment costs and maintain the required records is 16 hours.

Number of Respondents: 115.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Winans, (202) 366–4656, Department of Transportation, Federal Highway Administration, Safety Core Business Unit, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

Authority: 23 U.S.C. 140(a); 23 CFR 635.126; 29 U.S.C. 2; 23 U.S.C. 123; 23 U.S.C. 116; 23 U.S C. 130; 49 CFR 1.48.

Issued on: May 2, 2000.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 00–11310 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Valencia County, NM

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed new east-west highway and Rio Grande river crossing in Valencia County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Gregory D. Rawlings, Environmental Specialist, Federal Highway Administration, 604 W. San Mateo Road, Santa Fe, New Mexico 87505, telephone: (505) 820–2027; or F. Craig Conley, Environmental Program Manager, New Mexico State Highway and Transportation Department, P.O. Box 1149, Santa Fe, New Mexico 87504, telephone: (505) 827–5233.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Mexico State Highway and Transportation Department, will prepare an EIS for a proposed new highway that would link Interstate 25 (I–25) and New Mexico Highway 47 (NM 47) in Valencia County, NM. The study area encompasses a corridor approximately 4 miles wide and between I–25 and NM 47. The southern boundary of the corridor lies approximately 5 miles north of Reinken Road (NM Highway 309) through the City of Belen. The northern boundary of the corridor lies approximately 1.5 miles south of Main Street (NM Highway 6) through the Village of Los Lunas.

The need for a new east-west highway and river crossing that would connect I–25 and NM 47 is founded in several factors including rapid population growth, employment growth and congested roadways. Continuing population and employment growth is projected to occur on both sides of the Rio Grande in the project corridor, necessitating additional east to west travel. The current highway system to serve this growth is limited to two 4-lane highways spaced over 10 miles apart, and is projected to become severely congested. Alternatives to be considered by the EIS will include the No Action alternative and various route alternative(s) developed during the initial corridor study phase and scoping process. Alternatives are being developed with input from stakeholder jurisdictions, agencies, landowners, and the general public. The alternatives will also consider different lane configurations, access management concepts, roadway profiles, and system and demand management measures. Preliminary scoping for the project has included: (1) Introductory information sent to federal, state, tribal, and local agencies, public and private organizations, and individuals identified as potentially-interested or affected parties; (2) public information meetings conducted in the study area to solicit preliminary issues and concerns regarding the proposed action; (3) briefings to local jurisdictions; and, (4) meetings with various neighborhood groups, Native American groups and other stakeholder groups. A scoping letter describing the proposed action will be sent to interested agencies followed by a formal agency scoping meeting planned for Summer 2000. Additional public meetings will be held to discuss FHWA's intention to prepare an EIS. These meetings will provide an opportunity for additional public and agency input.

A public hearing will be held to present the findings of the Draft EIS (DEIS) during the public review period. The DEIS will be available for public and agency review and comment prior to the hearing.

To ensure that the full range of issues related to this proposed action are addressed all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action and EIS should be directed to the FHWA or NMSHTD at the addresses provided above.

(Catalogue of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities and 23 U.S.C. 315; 49 CFR 1.48 apply to this program.)

Issued on April 26, 2000.

Gregory D. Rawlings,

Environmental Specialist, Santa Fe, New Mexico.

[FR Doc. 00–11221 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2000–7329]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel TROPICAL ATTITUDES.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S. build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 5, 2000.

ADDRESSES: Comments should refer to docket number MARAD–2000–7329. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW, Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR 832 Room 7201, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (less than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commentor's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested: Name of vessel: TROPICAL ATTITUDES, Owner: Winkin, Inc. of Dover, DE.

(2) Size, capacity and tonnage of vessel: According to the Applicant ''TROPICAL ATTITUDES is 39′ in length, with a beam of 20′7″ and a gross tonnage of 8 tons (7 net tons) measured pursuant to 46 U.S. C. 14502.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''The intended use of the vessel, after the granting of a waiver, is to conduct live-aboard sailing catamaran charters in the Florida Keys. The maximum number of passengers on any such charter will be six, enabling the vessel to operate as an uninspected vessel with a coastwise endorsement. These charters will be conducted by CCJ Inc, a Florida Corporation, and citizen of the United States.''

(4) Date and place of construction and (if applicable) rebuilding. Date of construction: 1989, place of construction: Les Sables D'Olonnes, France.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''Since there are presently no other such operators offering live-aboard Catamaran sailing charters in the Florida Keys, we feel that we would not in any way be adversely affecting any other commercial vessel operators in the area. In fact, though there are many charter vessels for hire operating in the Florida Keys, there are few that offer any type of live-aboard arrangements and no other sailing catamaran based in the Florida Keys offers charters of this kind.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''Since there are very few U.S. shipbuilders manufacturing vessels comparable to the Privilege 39, we do not feel that our small operation will in any way adversely affect U.S. shipbuilders. We do feel, however, that the impact the operation will have on U.S. shipyards will be a positive one, as haul-outs and refits will be performed in U.S. shipyards. In addition, though we wish to start this operation on a small scale, we hope for future plans to include expansion into a larger vessel which will be U.S. built and certified as an Inspected Vessel as the business grows.''

By Order of the Maritime Administrator.

Dated: May 2, 2000.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–11315 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2000–7328]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel TA MANA.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S. build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 5, 2000.

ADDRESSES: Comments should refer to docket number MARAD–2000–7328. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR 832 Room 7201, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (less than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been

received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commentor's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested: Name of vessel: TA MANA Owner: Helmut ''Bernard'' Quante.

(2) Size, capacity and tonnage of vessel: According to the Applicant ''The vessel measures 36′ (LOA) and weighs 8.25 tons (weight according to ship builder's plaque inside of vessel—7,340 Kg).''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''The intended use for the vessel would be carrying up to six passengers for touring the San Francisco Bay and the Gulf of the Farrallones. The boat is of a very seakindly design, some sister ships sailed around Cape Horn.''

(4) Date and place of construction and (if applicable) rebuilding. Date of construction: 1981, place of construction: Fecamp, Normandy, France.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''The home port and intended area of operation is San Francisco, the most visited city in the whole United States, perhaps the world. There are a number of large operators that tour the Bay with ferry-size vessels and some larger sailing vessels that can take up to 49 passengers. They all seem to do brisk business. I am planning to target French and German speaking tourist, offering a hands-on sailing experience where the guests participate in handling the boat. I believe that the presence of my operation will have a minute impact on the overall picture.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''My boat is constructed of aluminum. Very few shipyards do build equivalent boats, if any. However I have been given local shipyards a fair amount of business from regular haul outs for maintenance and bottom painting to welding and paint jobs, installation of a new engine, etc. Ship chandlers and sail makers profited from outfitting my boat with brand new electronics, a galley and new sails. The interior became a near rebuilt. I sailed the vessel to the Hawaiian Islands four times under the Ocean Racers Rules. Consequently, the safety equipment on board exceeds U.S. Coast Guard requirement.''

Dated: May 2, 2000.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00–11316 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2000–7266]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before July 5, 2000.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Ms. Kim Jackson, NHTSA 400 Seventh Street, SW, Room 5238, NSC–01,Washington, DC 20590. Ms. Jackson's telephone number is (202) 366–2588. Her fax number is (202) 493–2833 Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

(1) *Title:* Air Bag Deactivation.

OMB Control Number: 2127–0588.

Affected Public: Private individuals, fleet owners and lessees, motor vehicle dealers, repair business.

Abstract: If a private individual or lessee wants to install an air bag on-off switch to turn-off either or both frontal air bags, they must complete Form OMB 2127–0588 to certify certain statements regarding use of the switch. The dealer or business must, in turn, submit the completed forms to NHTSA within seven days. The submission of the completed forms by the dealers and repair business to NHTSA, as required, will serve the agency several purposes. They will aid the agency in monitoring the number of authorization requests submitted and the pattern in claims of risk groups membership. The completed forms will enable the agency to determine whether the dealers and

repair business are complying with the terms of the exemption, which include a requirement that the dealers and repair businesses accept only fully completed forms. Finally, submission of the completed forms to the agency will promote honesty and accuracy in the filling out of the forms by vehicle owners. The air bag on-off switches are installed only in vehicles in which the risk of harm needs to be minimized on a case-by-case basis.

Estimated Annual Burden: 7,500 hours.

Estimated Number of Respondents: 15,000.

Issued on: May 1, 2000.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 00–11253 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20967]

Laidlaw Inc., et al.—Control and Merger—Penetang-Midland Coach Lines Limited, J. I. DeNure (Chatham) Limited, d/b/a Chatham Coach Lines, and Chatham Coach Lines, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance application.

SUMMARY: In an application filed under 49 U.S.C. 14303, Laidlaw Inc. (Laidlaw), a noncarrier, seeks to acquire indirect control, through its subsidiary, Laidlaw Transit Ltd. (Transit Ltd.), of Penetang-Midland Coach Lines Limited (PMCL) and J. I. DeNure (Chatham) Limited, d/b/a Chatham Coach Lines (JID), motor passenger carriers, and subsequently to merge PMCL and JID into Transit Ltd. Laidlaw also seeks to acquire indirect control, through its subsidiary, Laidlaw Transit, Inc. (Transit, Inc.), of Chatham Coach Lines, Inc. (CCL), a motor passenger carrier, and subsequently to merge CCL into Transit, Inc. Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by June 19, 2000. Applicants may file a reply by July 5, 2000. If no comments are filed by June 19, 2000, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20967 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of comments to applicants' representative: Fritz R. Kahn, 1920 N Street (8th Floor), NW., Washington, DC 20036–1601.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired:1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Applicants submit that, pursuant to an agreement, dated June 4, 1998, Transit Ltd. acquired a minority shareholder's interest in PMCL on June 23, 1998, and, upon approval by the Board of the proposed transaction, Transit Ltd. proposes to acquire the remainder of PMCL's issued and outstanding stock as of June 23, 2000. Applicants also submit that, by agreements dated February 3, 2000, Transit Ltd. and Transit, Inc. agreed to acquire all of the issued and outstanding shares of JID and CCL, respectively, and the shares simultaneously were placed in voting trusts by their former owners.[1]

Laidlaw currently controls motor passenger carriers, which include Transit Ltd. (MC–102189) and Transit, Inc. (MC–161299). These carriers' operations in the United States, with the exception of Greyhound Lines, Inc. (Greyhound), are largely limited to charter and special operations. Greyhound holds federally issued operating authority in Docket No. MC–1515 and provides mainly nationwide, scheduled regular-route operations. Although Greyhound performs some special and charter operations, according to applicants, Greyhound does not have the same contacts as those established by PMCL, JID, and CCL.[2] Applicants assert that the addition of PMCL, JID, and CCL will contribute significantly to the breadth of services that Greyhound and the other Laidlaw affiliates are able to provide to the traveling public within the United States.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicants have submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Specifically, applicants have shown that the proposed transaction will have a positive effect on the adequacy of transportation to the public and will result in no increase in fixed charges and no changes in employment. *See* 49 CFR 1182.2(a)(7). Additional information may be obtained from applicants' representative.

On the basis of the application, we find that the proposed transaction is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at: ''WWW.STB.DOT.GOV.''

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

It is Ordered:

1. The proposed control and merger is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on June 19, 2000, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration—HMCE–20, 400 Virginia Avenue, SW., Suite 600, Washington, DC 20024; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: April 27, 2000.

[1] PMCL, JID, and CCL operate primarily in Canada, but hold federally issued authority in Docket Nos. MC–139953, MC–11143, and MC–172751, respectively, authorizing them to provide special and charter operations in the United States.

[2] Laidlaw states that PMCL's contacts are with community organizations, schools, and other institutions in central Ontario, Canada, and JID's and CCL's contacts are in southwestern Ontario.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,

Secretary.

[FR Doc. 00–11181 Filed 5–4–00; 8:45 am]

BILLING CODE 4915–00–U

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33835]

Penn-Jersey Rail Lines, Inc.—Acquisition and Operation Exemption—Lines in Penn Warner Industrial Park, Falls Township, Bucks County, PA

Penn Jersey Rail Lines, Inc. (PJRL), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire, by assignment from Consolidated Rail Corporation, and operate, as a common carrier railroad, line easements in Penn Warner Industrial Park, Falls Township, Bucks County, PA.[1] The line easements are described as approximately a mile in length and beginning at a point located 250 feet +/− in a westerly direction along the centerline of the track from the Point of Switch at Railroad Station 0+00.

The transaction is scheduled to be consummated on or after May 1, 2000.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33835, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Fritz R. Kahn, Esq., 1920 N Street, NW., Washington, DC 20036–1601.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: April 27, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–11182 Filed 5–4–00; 8:45 am]

BILLING CODE 4915–00–P

[1] In the verified notice of exemption, PJRL states that the line easements are identified as Easements A and B in a deed of easement from the Warner Realty Investment Company to Penn Central Transportation Company, dated December 13, 1973.

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request abstracted below has been forwarded to the Office of Management and Budget for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 5, 2000 (65 FR pages 552–553).

DATES: Comments must be submitted on or before June 5, 2000.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, (202) 366–4387, DOT, Office of Airline Information, Room 4125, K–25, 400 Seventh Street, NW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics

Title: Part 249 Preservation of Records.

Type of Request: Extension of a currently approved Collection.

OMB Control Number: 2138–0006.

Form(s): None.

Affected Public: Certificated air carriers, public charter operators and overseas military personnel charter operators.

Abstract: Part 249 applies to all carriers holding certificates of public convenience and necessity, public charter operators, and overseas military personnel charter operators. This part requires the retention of such records as general and subsidiary ledgers, journals and journal vouchers, voucher distribution registers, accounts receivable and payable journals and ledgers, subsidy records documenting underlying financial and statistical reports to the Department, funds reports, consumer records, sales reports, auditors' and flight coupons, air waybills, etc. Depending on the nature of the document, it may be retained for a period of 30 days to 3 years. Public charter operators and overseas military personnel charter operators must retain documents which evidence or reflect deposits made by each charter participant and commissions received by, paid to, or deducted by travel agents, and all statements, invoices, bills and receipts from suppliers or furnishers of goods and services in connection with the tour or charter. These records are retained for 6 months after completion of the charter program.

Estimated Annual Burden Hours: 710.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention BTS Desk Officer.

Comments are Invited on: whether the proposed record retention requirements are necessary for the proper performance of the functions of the Department, including whether the record retention requirements practical utility; the accuracy of the Department's estimate of the burden of the proposed record retention; ways to enhance the quality, utility and clarity of the requirements; and ways to minimize the burden of the requirements on respondents, including the use other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on May 1, 2000.

Donald W. Bright,

Acting Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 00–11252 Filed 5–4–00; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 1, 2000.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 5, 2000 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0157.

Form Number: None.

Type of Review: Extension.

Title: Exportation of Self-Propelled Vehicles.

Description: The Exportation of Self-Propelled Vehicles requires the submission of documents verifying vehicle ownership of exporters for exportation of vehicles in the United States.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 600,000.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 100,000 hours.

OMB Number: 1515–0189.

Form Number: None.

Type of Review: Extension.

Title: Petroleum Refineries in Foreign Trade Subzones.

Description: This recordkeeping requirement provides special procedures for Petroleum Refineries in foreign Trade Subzones and requirements governing the operations of crude petroleum and refineries approved as foreign trade zones.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Recordkeepers: 18.

Estimated Burden Hours Per Recordkeeper: 732 hours.

Estimated Total Recordkeeping Burden: 13,176 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW, Room 3.2.C, Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–11299 Filed 5–4–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 21, 2000.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 5, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0238.

Form Number: IRS Form W–2G.

Type of Review: Extension.

Title: Certain Gambling Winnings.

Description: Internal Revenue Code (IRC) section 6041 requires payers of certain gambling winnings to report them to IRS. If applicable, section 3402(g) and section 3406, require tax withholding on these winnings. We use the information to ensure taxpayer income reporting compliance.

Respondents: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 6,400.

Estimated Burden Hours Per Respondent: 19 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1,272,479 hours.

OMB Number: 1545–0274.

Form Number: IRS Form 2163(c).

Type of Review: Extension.

Title: Employment—Reference Inquiry.

Description: Form 2163(c) is used by IRS to verify past employment and to question listed and developed references as to the character and integrity of current and potential IRS employees. The information received is incorporated into a report on which a security determination is based.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 20,000.

Estimated Burden Hours Per Respondent: 12 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4,000 hours.

OMB Number: 1545–0967.

Form Number: IRS Form 83–F.

Type of Review: Extension.

Title: U.S. Estate or Trust Income Tax Declaration and Signature for Electronic and Magnetic Media Filing.

Description: This form is used to secure taxpayer signatures and declaration in conjunction with electronic and magnetic media filing of trust and fiduciary income tax returns. This form, together with the electronic and magnetic media transmission, will comprise the taxpayer's income tax return (Form 1041).

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Minutes
Recordkeeping	7
Learning about the law or the form	5
Preparing the form	18
Copying, assembling, and sending the form to the IRS	20

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 830 hours.

OMB Number: 1545–0970.

Form Number: IRS Form 8453–P.

Type of Review: Extension.

Title: U.S. Partnership Declaration and Signature for Electronic Filing.

Description: This form is used to secure the general partner's signature and declaration in conjunction with the electronic filing of a partnership return (Form 1065). Form 8453–P, together with the electronic transmission, will comprise the partnership's return.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Minutes
Recordkeeping	7
Learning about the law or the form	5
Preparing the form	20
Copying, assembling, and sending the form to the IRS	17

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 410 hours.

OMB Number: 1545–1227.

Regulation Project Number: FI–104–90 Final.

Type of Review: Extension.

Title: Tax Treatment of Salvage and Reinsurance.

Description: The regulation provides a disclosure requirement for an insurance company that increases losses shown on its annual statement by the amount of estimated salvage recoverable taken into account.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 5,000 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 00–11300 Filed 5–4–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Secret Service

Proposed Collection; Comment Request

April 19, 2000.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(C)(2)(A)). Currently, the United States Secret Service, within the Department of the Treasury is soliciting comments concerning the SSF 3237, Contractor Personnel Access Application.

DATES: Written comments should be received on or before June 30, 2000.

ADDRESSES: Direct all written comments to United States Secret Service, Special Investigations and Security Division, Attn: Special Agent Richard Harrington, Special Investigations and Security Programs Branch, 950 H St., NW, Washington, DC 20373–5824, Suite 3800, 202/406–5830.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to: United States Secret Service, Special Investigations and Security Division, Attn: Special Agent Richard Harrington, Security Programs Branch, 950 H Street, NW, Washington, DC 20373–5824. Telephone number: (202) 406–5830.

SUPPLEMENTARY INFORMATION:

Title: Contractor Personnel Access Application.

OMB Number:

Form Number: SSF 3237.

Abstract: Respondents are all Secret Service contractor personnel requiring access to Secret Service facilities performance of their contractual duties. These contractors, if approved for access, will require escorted, unescorted, and staff-like access to Secret Service facilities. Response to questions on the SSF 3237 yields information necessary for the adjudication of eligibility for facility access.

Type of Review: New.

Affected Public: Individuals or Households/Business.

Estimated Number of Respondents: 5000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 1250 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) The annual cost burden to respondents or record keepers from the collection of information (a total capital and start-up cost and a total operation and maintenance cost).

Dated: April 19, 2000.

John Machado,

Branch Chief, Policy Analysis and Records Systems Branch.

[FR Doc. 00–11266 Filed 5–4–00; 8:45 am]

BILLING CODE 4810–42–M

Corrections

Federal Register

Vol. 65, No. 88

Friday, May 5, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

Correction

In notice document 00–10872 appearing on page 25468 in the issue of Tuesday, May 2, 2000, make the following correction:

On page 25468, in the first column, in the **DATES** section, in the second and third lines, ''July 3, 2000'' should read ''June 1, 2000.''.

[FR Doc. C0–10872 Filed 5–4–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailling Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

Correction

In notice document 00–9107 appearing on page 19736 in the issue of Wednesday, April 12, 2000, the table is corrected to read as follows:

	Period
Antidumping Duty Proceedings	
Canada: Sugar and Syrups,* A–122–085	4/1/99–12/31/99
France: Sorbitol, A–427–001	4/1/99–3/31/00
Greece: Electrolytic Manganese Dioxide, A–484–801	4/1/99–3/31/00
Japan: Calcium Hypochlorite*, A–588–401	4/1/99–12/31/99
Japan: Electrolytic Manganese Dioxide*, A–588–806	4/1/99–3/31/00
Japan: 3.5″ Microdisks and Media Thereof*, A–588–802	4/1/99–12/31/99
Kenya: Standard Carnations*, A–779–602	4/1/99–12/31/99
Mexico: Fresh Cut Flowers*, A–201–601	4/1/99–12/31/99
Norway: Fresh and Chilled Atlantic Salmon, A–403–801	4/1/99–3/31/00
Republic of Korea: Color Television Receivers*, A–580–008	4/1/99–12/31/99
Taiwan: Color Television Receivers*, A–583–009	4/1/99–12/31/99
The People's Republic of China: Brake Rotors, A–570–846	4/1/99–3/31/00
Turkey: Certain Steel Concrete Reinforcing Bars, A–489–807	4/1/99–3/31/00
Countervailing Duty Proceedings	
Norway: Fresh and Chilled Atlantic Salmon, C–403–802	4/1/99–12/31/99
Peru: Pompon Chrysanthemums, C–333–601	4/1/99–12/31/99
Suspension Agreements	
None.	

*Order revoked effective 01/01/2000.

[FR Doc. C0–9107 Filed 5–4–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

10 CFR Part 810

RIN 1992-AA24

Assistance to Foreign Atomic Energy Activities

Correction

In rule document 00–7181 beginning on page 16124 in the issue of Monday, March 27, 2000, make the following correction:

§810.8 [Corrected]

On page 16127, in §810.8(a), in the second column:

1. In the third line, after ''the'' add ''following'' and in the fourth line, remove ''following''.

2. In the list of countries, the 20th entry ''China, People's Republic of Comoros*'' should read ''China, People's Republic of*'' and ''Comoros*'' should become the 21st entry.

[FR Doc. C0–7181 Filed 5–4–00; 8:45 am]

BILLING CODE 1505–01–D

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052-AB67

Loan Policies and Operations; Participations

Correction

In rule document 00–9955 beginning on page 24101, in the issue of Tuesday, April 25, 2000, make the following corrections:

1. On page 24102, in the first column, in the 10th line, ''participation'' should read ''participations''.

§ 614.4000 [Corrected]

2. On page 24102, in the second column, in amendatory instruction 2. ''§ 614.000'' should read ''§ 614.4000''.

[FR Doc. C0–9955 Filed 5–4–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,

May 5, 2000

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 412, 413, and 485

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2001 Rates; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 412, 413, and 485

[HCFA–1118–P]

RIN 0938–AK09

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2001 Rates

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing to revise the Medicare hospital inpatient prospective payment system for operating costs to: implement applicable statutory requirements, including a number of provisions of the Medicare, Medicaid, and State Children's Health Insurance Program Balanced Budget Refinement Act of 1999 (Public Law 106–113); and implement changes arising from our continuing experience with the system. In addition, in the Addendum to this proposed rule, we are describing proposed changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capital-related costs. These changes would be applicable to discharges occurring on or after October 1, 2000. We also are setting forth proposed rate-of-increase limits as well as proposed policy changes for hospitals and hospital units excluded from the prospective payment systems.

We are proposing changes to the policies governing payments to hospitals for the direct costs of graduate medical education and payments to disproportionate share hospitals, sole community hospitals, and critical access hospitals to implement changes made by Public Law 106–113.

Finally, we are proposing a new condition of participation on organ, tissue, and eye procurement for critical access hospitals that parallels the condition of participation that we previously published for all other Medicare-participating hospitals.

DATES: Comments will be considered if received at the appropriate address, as provided below, no later than 5 p.m. on July 5, 2000.

ADDRESSES: Mail written comments (an original and three copies) to the following address only: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1118–P, P.O. Box 8010, Baltimore, MD 21244–1850.

If you prefer, you may deliver by courier your written comments (an original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or

Room C5–14–03, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to those addresses may be delayed and could be considered late.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1118–P.

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to the following addresses:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Attn: John Burke HCFA–1118–P; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT:

Steve Phillips, (410) 786–4531, Operating Prospective Payment, DRG, Wage Index, Reclassifications, and Sole Community Hospital Issues.

Tzvi Hefter, (410) 786–4487, Capital Prospective Payment, Excluded Hospitals, Graduate Medical Education and Critical Access Hospital Issues.

SUPPLEMENTARY INFORMATION:

Availability of Copies and Electronic Access

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/nara_docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

I. Background

A. Summary

Section 1886(d) of the Social Security Act (the Act) sets forth a system of payment for the operating costs of acute care hospital inpatient stays under Medicare Part A (Hospital Insurance) based on prospectively set rates. Section 1886(g) of the Act requires the Secretary to pay for the capital-related costs of hospital inpatient stays under a prospective payment system. Under these prospective payment systems, Medicare payment for hospital inpatient operating and capital-related costs is made at predetermined, specific rates for each hospital discharge. Discharges are classified according to a list of diagnosis-related groups (DRGs).

Certain specialty hospitals are excluded from the prospective payment systems. Under section 1886(d)(1)(B) of the Act, the following hospitals and hospital units are excluded from the prospective payment systems: psychiatric hospitals and units, rehabilitation hospitals and units, children's hospitals, long-term care hospitals, and cancer hospitals. For these hospitals and units, Medicare payment for operating costs is based on reasonable costs subject to a hospital-specific annual limit.

Under sections 1820 and 1834(g) of the Act, payments are made to critical

access hospitals (CAHs) (that is, rural nonprofit hospitals or facilities that meet certain statutory requirements) for outpatient services on a reasonable cost basis. Reasonable cost is determined under the provisions of section 1861(v)(1)(A) of the Act and existing regulations under parts 413 and 415.

Under section 1886(a)(4) of the Act, costs of approved educational activities are excluded from the operating costs of inpatient hospital services. Hospitals with approved graduate medical education (GME) programs are paid for the direct costs of GME in accordance with section 1886(h) of the Act; the amount of payment for direct GME costs for a cost reporting period is based on the hospital's number of residents in that period and the hospital's costs per resident in a base year.

The regulations governing the hospital inpatient prospective payment system are located in 42 CFR part 412. The regulations governing excluded hospitals and hospital units are located in parts 412 and 413, and the GME regulations are located in part 413.

On July 30, 1999, we published a final rule in the **Federal Register** (64 FR 41490) that implemented both statutory requirements and other changes to the Medicare hospital inpatient prospective payment systems for both operating costs and capital-related costs, as well as changes addressing payment for excluded hospitals and payments for GME costs. Generally, these changes were effective for discharges occurring on or after October 1, 1999. Correction notices for the July 30, 1999 final rule relating to the wage index and geographic adjustment factor were issued in the **Federal Register** on January 12, 2000 (65 FR 1817) and February 7, 2000 (65 FR 5933).

On November 29, 1999, the Medicare, Medicaid, and State Children's Health Insurance Program (SCHIP) Balanced Budget Refinement Act of 1999, Public Law 106–113, was enacted. Public Law 106–113 made a number of changes to the Act relating to prospective payments to hospitals for inpatient services and payments to excluded hospitals. This proposed rule would implement amendments enacted by Public Law 106–113 relating to FY 2001 payments for GME costs and FY 2001 payments to disproportionate share hospitals (DSHs), sole community hospitals (SCHs), and CAHs. These changes are addressed in sections IV. and VI. of this preamble.

Other provisions of Public Law 106–113 that relate to Medicare payments to hospitals effective prior to October 1, 2000, will be addressed in a separate interim final rule with comment period. The provisions that will be included in the interim final rule are summarized in section I.C. of this preamble.

Public Law 106–113 also amended section 1886(j) of the Act, which was added by section 4421 of the Balanced Budget Act of 1997 (Public Law 105–33). Section 1886(j) of the Act provides for a fully implemented prospective payment system for inpatient rehabilitation hospitals and rehabilitation units, effective for cost reporting periods beginning on or after October 1, 2002, with provisions for payments during a transitional period of October 1, 2000 to October 1, 2002, based on target amounts specified in section 1886(b) of the Act. In section VI of this preamble, we describe the impact of this provision on the proposed changes applicable to excluded hospitals and units in this proposed rule. We are issuing a separate notice of proposed rulemaking to implement the prospective payment system for inpatient rehabilitation hospitals and units.

B. Major Contents of This Proposed Rule

In this proposed rule, we are setting forth proposed changes to the Medicare hospital inpatient prospective payment system for operating costs. We are not proposing any policy changes relating to payments for capital-related costs under the hospital inpatient prospective payment system in FY 2001. Our proposed changes relating to capital-related costs include only changes to the amounts and factors for determining the rates for capital-related costs for FY 2001. We also are proposing changes relating to payments for GME costs and payments to excluded hospitals and units, DSHs, SCHs, and CAHs. This proposed rule would be effective for discharges occurring on or after October 1, 2000.

The following is a summary of the major changes that we are proposing to make:

1. Proposed Changes to the DRG Reclassifications and Recalibrations of Relative Weights

As required by section 1886(d)(4)(C) of the Act, we adjust the DRG classifications and relative weights annually. Our proposed changes for FY 2001 are set forth in section II. of this preamble.

2. Proposed Changes to the Hospital Wage Index

In section III. of this preamble, we discuss proposed revisions to the wage index and the annual update of the wage data. Specific issues addressed in this section include the following:

- The FY 2001 wage index update, using FY 1997 wage data.
- The transition to excluding from the wage index Part A physician wage costs that are teaching-related, as well as resident and Part A certified registered nurse anesthetist (CRNA) costs.
- Revisions to the wage index based on hospital redesignations and reclassifications.

3. Other Decisions and Proposed Changes to the Prospective Payment System for Inpatient Operating and Graduate Medical Education Costs

In section IV. of this preamble, we discuss several provisions of the regulations in 42 CFR Parts 412 and 413 and set forth certain proposed changes concerning the following:

- Postacute care transfers.
- Sole community hospitals.
- Rural referral centers.
- Changes relating to the indirect medical education adjustment.
- Changes relating to the DSH adjustment and collection of data on uncompensated costs for services furnished in hospitals under the prospective payment system.
- Medicare Geographic Classification Review Board (MGCRB) classifications.
- Payment for the direct costs of GME.

4. Last Year of Transition Period for the Prospective Payment System for Capital-Related Costs

In section V. of this preamble, we discuss FY 2001 as the last year of a 10-year transition period established to phase-in the prospective payment system for capital-related costs for inpatient hospital services.

5. Proposed Changes for Hospitals and Hospital Units Excluded from the Prospective Payment Systems

In section VI. of this preamble, we discuss the following proposals concerning excluded hospital and hospital units and CAHs:

- Limits on and adjustments to the proposed target amounts for FY 2001.
- Development of prospective payment system for inpatient rehabilitation hospitals and units.
- Continuous improvement bonus payments.
- Clarification that the 5-percent threshold used in calculating an excluded hospital's cost per discharge is based only on Medicare inpatients discharged from the hospital-within-a-hospital.
- All-inclusive payment rate option for CAHs.
- Condition of participation for CAHs relating to organ, tissue, and eye procurement.

6. Determining Prospective Payment Operating and Capital Rates and Rate-of-Increase Limits

In the Addendum to this proposed rule, we set forth proposed changes to the amounts and factors for determining the FY 2001 prospective payment rates for operating costs and capital-related costs. We also address update factors for determining the rate-of-increase limits for cost reporting periods beginning in FY 2001 for hospitals and hospital units excluded from the prospective payment system.

7. Impact Analysis

In Appendix A, we set forth an analysis of the impact that the proposed changes described in this proposed rule would have on affected entities.

8. Capital Acquisition Model

Appendix B contains the technical appendix on the proposed FY 2001 capital cost model.

9. Report to Congress on the Update Factor for Hospitals under the Prospective Payment System and Hospitals and Units Excluded from the Prospective Payment System

Section 1886(e)(3) of the Act requires the Secretary to report to Congress on our initial estimate of a recommended update factor for FY 2001 for payments to hospitals included in the prospective payment systems, and hospitals excluded from the prospective payment systems. This report is included as Appendix C to this proposed rule.

10. Proposed Recommendation of Update Factor for Hospital Inpatient Operating Costs

As required by sections 1886(e)(4) and (e)(5) of the Act, Appendix D provides our recommendation of the appropriate percentage change for FY 2001 for the following:

- Large urban area and other area average standardized amounts (and hospital-specific rates applicable to sole community and Medicare-dependent, small rural hospitals) for hospital inpatient services paid for under the prospective payment system for operating costs.
- Target rate-of-increase limits to the allowable operating costs of hospital inpatient services furnished by hospitals and hospital units excluded from the prospective payment system.

11. Discussion of Medicare Payment Advisory Commission Recommendations

Under section 1805(b) of the Act, the Medicare Payment Advisory Commission (MedPAC) is required to submit a report to Congress, not later than March 1 of each year, that reviews and makes recommendations on Medicare payment policies. This annual report makes recommendations concerning hospital inpatient payment policies. In section VII. of this preamble, we discuss the MedPAC recommendations and any actions we are proposing to take with regard to them (when an action is recommended). For further information relating specifically to the MedPAC March 1 report or to obtain a copy of the report, contact MedPAC at (202) 653–7220.

C. Provisions of Public Law 106–113 To Be Included in Interim Final Rule With Comment Period

As we have indicated under section I.A. of this preamble, we are planning to publish an interim final rule with comment period to address provisions of Public Law 106–113 that are effective prior to October 1, 2000. This interim final rule with comment period will be issued prior to the publication of the hospital inpatient prospective payment system final rule by August 1. A summary of the provisions of Public Law 106–113 that will be addressed in the interim final rule with comment period follows:

- Section 111(b), which provides for an additional payment to teaching hospitals equal to the additional amount the hospital would have been paid for FY 2000 if the IME adjustment formula under section 1886(d)(5)(B) of the Act (which reflects the higher indirect operating costs associated with GME) for FY 2000 had remained the same as for FY 1999. (Section 111(a) also changed the IME adjustment formula for discharges occurring during FY 2001 and for discharges occurring on or after October 1, 2001, which is addressed in section IV.D. of this preamble.)
- Section 121, which amended section 1886(b)(3)(H) of the Act to provide for an appropriate wage adjustment to the cap on the target amounts for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. We will address the wage adjustment to the FY 2000 caps in the interim final rule. (The wage adjustment to the FY 2001 caps is discussed in section VI. of this preamble.)
- Section 312, which amended section 1886(h)(5) of the Act to provide that, effective July 1, 2000, in determining the cap on the number of residents for GME and IME costs, the period of board eligibility and the initial residency period for child neurology is the period of board eligibility for pediatrics plus 2 years. This provision applies on and after July 1, 2000, to residency programs that began before, on, or after November 29, 1999.
- Section 401(a), which amended section 1886(d)(8) of the Act to direct the Secretary to treat certain hospitals located in urban areas as being located in rural areas of their State if the hospital meets statutory criteria and files an application with HCFA. This provision is effective on January 1, 2000.
- Section 401(b), which contains conforming changes to incorporate the reclassifications under the amendments made by section 401(a) of Public Law 106–113 to outpatient hospital services (section 1833(t) of the Act) and the CAH statute (section 1820(c)(2)(B)(i) of the Act). This provision is effective on January 1, 2000.
- Section 403(a), which amended section 1820(c)(2)(B)(iii) of the Act to delete the 96-hour length of stay restriction on inpatient care in a CAH and to authorize a period of stay that does not exceed, on an annual basis, 96 hours per patient. This provision is effective on November 29, 1999.
- Section 403(b), which amended section 1820(c)(2)(B)(i) of the Act to allow for-profit hospitals to qualify for CAH status. This provision is effective on November 29, 1999.
- Section 403(c), which amended section 1820(c) of the Act to allow hospitals that have closed within 10 years prior to November 29, 1999, or hospitals that downsized to a health clinic or health center, to be designated as CAHs if they meet the established criteria for designation.
- Section 403(e), which amended sections 1833(a)(1)(D)(i) and 1833(a)(2)(D)(i) the Act to eliminate the Medicare Part B deductible and coinsurance for clinical diagnostic laboratory tests furnished by a CAH on an outpatient basis. This provision is effective with respect to services furnished on or after November 29, 1999.
- Section 403(f), which amended section 1883 of the Act to reinstate the right of CAHs that meet applicable requirements to enter into ''swing-bed'' agreements.
- Section 404, which amended section 1886(d)(5)(G) of the Act to extend the Medicare-dependent, small rural hospital program for 5 years, from FY 2001 through FY 2005. Section 404 also amended section 1886(b)(3)(D) of the Act as a conforming change to make the 5-year extension applicable to the

target amounts for Medicare-dependent, small rural hospitals.

• Section 407(a)(1), which amended section 1886(h)(4)(F) of the Act to direct the Secretary, for purposes of determining a hospital's FTE cap for direct GME payments, to count an individual to the extent that the individual would have been counted as a primary care resident for purposes of the FTE cap but for the fact that the individual was on maternity or disability leave or a similar approved leave of absence. Section 407(a)(2) made a corresponding amendment to section 1886(d)(5)(B)(v) of the Act relating to the IME adjustment. The provision relating to direct GME is effective with cost reporting periods beginning on or after November 29, 1999. The provision relating to the IME adjustment applies to discharges occurring in cost reporting periods beginning on or after November 29, 1999.

• Section 407(b)(1), which amended section 1886(h)(4)(F)(i) of the Act to provide that a rural hospital's direct FTE count for direct GME may not exceed 130 percent of the number of unweighted residents that the rural hospital counted in its most recent cost reporting period ending on or before December 31, 1996. Section 407(b)(2) made a similar change to section 1886(d)(5)(B)(v) of the Act relating to the IME adjustment. The provision relating to direct GME applies to cost reporting periods beginning on or after April 1, 2000. The provision relating to the IME adjustment applies to discharges occurring on or after April 1, 2000.

• Section 407(c), which amended sections 1886(h)(4)(H) and 1886(d)(5)(B)(v) of the Act to allow a non-rural hospital that establishes separately accredited approved medical residency training programs (or rural training tracks) in a rural area or has an accredited training program with an integrated rural track, to receive an FTE cap adjustment for purposes of direct GME and IME. The provision is effective with cost reporting periods beginning on or after April 1, 2000 for direct GME, and with discharges occurring on or after April 1, 2000 for IME.

• Section 407(d) addresses the situation where residents were training in a residency training program at a Veterans Affairs hospital and then were transferred on or after January 1, 1997 and on or before July 30, 1998, to a non-Veterans Affairs hospital because the program in which the residents were training would lose its accreditation by the Accreditation Council on Graduate Medical Education (ACGME) if the residents continued to train at the facility. In this scenario, the non-Veterans Affairs hospital may receive a temporary adjustment to its 1996 FTE cap to include in its FTE count those residents who were transferred from the Veterans Affairs hospital. This provision applies as if it was included in the enactment of Public Law 105–33, that is, for GME with cost reporting periods beginning on or after October 1, 1997, and for IME, discharges occurring on or after October 1, 1997. If a hospital is owed payments as a result of this provision, payments must be made immediately.

• Section 541, which amended section 1886 of the Act to provide an additional payment to hospitals that receive payments under section 1861(v) of the Act for approved nursing and allied health education programs to reflect utilization of Medicare+Choice enrollees. This provision is effective for portions of cost reporting periods in a year beginning with calendar year 2000.

II. Proposed Changes to DRG Classifications and Relative Weights

A. Background

Under the prospective payment system, we pay for inpatient hospital services on a rate per discharge basis that varies according to the DRG to which a beneficiary's stay is assigned. The formula used to calculate payment for a specific case takes an individual hospital's payment rate per case and multiplies it by the weight of the DRG to which the case is assigned. Each DRG weight represents the average resources required to care for cases in that particular DRG relative to the average resources used to treat cases in all DRGs.

Congress recognized that it would be necessary to recalculate the DRG relative weights periodically to account for changes in resource consumption. Accordingly, section 1886(d)(4)(C) of the Act requires that the Secretary adjust the DRG classifications and relative weights at least annually. These adjustments are made to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources. The proposed changes to the DRG classification system, and the proposed recalibration of the DRG weights for discharges occurring on or after October 1, 2000, are discussed below.

B. DRG Reclassification

1. General

Cases are classified into DRGs for payment under the prospective payment system based on the principal diagnosis, up to eight additional diagnoses, and up to six procedures performed during the stay, as well as age, sex, and discharge status of the patient. The diagnosis and procedure information is reported by the hospital using codes from the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM). Medicare fiscal intermediaries enter the information into their claims processing systems and subject it to a series of automated screens called the Medicare Code Editor (MCE). These screens are designed to identify cases that require further review before classification into a DRG.

After screening through the MCE and any further development of the claims, cases are classified into the appropriate DRG by the Medicare GROUPER software program. The GROUPER program was developed as a means of classifying each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). It is used both to classify past cases in order to measure relative hospital resource consumption to establish the DRG weights and to classify current cases for purposes of determining payment. The records for all Medicare hospital inpatient discharges are maintained in the Medicare Provider Analysis and Review (MedPAR) file. The data in this file are used to evaluate possible DRG classification changes and to recalibrate the DRG weights.

In the July 30, 1999 final rule (64 FR 41500), we discussed a process for considering non-MedPAR data in the recalibration process. In order for the use of particular data to be feasible, we must have sufficient time to evaluate and test the data. The time necessary to do so depends upon the nature and quality of the data submitted. Generally, however, a significant sample of the data should be submitted by August 1, approximately 8 months prior to the publication of the proposed rule, so that we can test the data and make a preliminary assessment as to the feasibility of using the data. Subsequently, a complete database should be submitted no later than December 1 for consideration in conjunction with the next year's proposed rule.

Currently, cases are assigned to one of 501 DRGs (including one DRG for a diagnosis that is invalid as a discharge diagnosis and one DRG for ungroupable diagnoses) in 25 major diagnostic categories (MDCs). Most MDCs are based on a particular organ system of the body (for example, MDC 6 (Diseases and Disorders of the Digestive System)); however, some MDCs are not constructed on this basis since they

involve multiple organ systems (for example, MDC 22 (Burns)).

In general, cases are assigned to an MDC based on the principal diagnosis, before assignment to a DRG. However, there are five DRGs to which cases are directly assigned on the basis of procedure codes. These are the DRGs for liver, bone marrow, and lung transplants (DRGs 480, 481, and 495, respectively) and the two DRGs for tracheostomies (DRGs 482 and 483). Cases are assigned to these DRGs before classification to an MDC.

Within most MDCs, cases are then divided into surgical DRGs (based on a surgical hierarchy that orders individual procedures or groups of procedures by resource intensity) and medical DRGs. Medical DRGs generally are differentiated on the basis of diagnosis and age. Some surgical and medical DRGs are further differentiated based on the presence or absence of complications or comorbidities (CC).

Generally, the GROUPER does not consider other procedures; that is, nonsurgical procedures or minor surgical procedures generally not performed in an operating room are not listed as operating room (OR) procedures in the GROUPER decision tables. However, there are a few non-OR procedures that do affect DRG assignment for certain principal diagnoses, such as extracorporeal shock wave lithotripsy for patients with a principal diagnosis of urinary stones.

The changes we are proposing to make to the DRG classification system for FY 2001 and other issues concerning DRGs are set forth below. Unless otherwise noted, our DRG analysis is based on the full (100 percent) FY 1999 MedPAR file (bills received through December 31, 1999 for discharges in FY 1999).

2. MDC 5 (Diseases and Disorders of the Circulatory System)

In the August 29, 1997 final rule with comment period (62 FR 45974), we noted that, because of the many recent changes in heart surgery, we were considering conducting a comprehensive review of the MDC 5 surgical DRGs. In the July 31, 1998 final rule with comment period (63 FR 40956), we did adopt some changes to the MDC 5 surgical DRGs. Since that time, we have received inquiries on a continuing basis regarding these DRGs. We have continued to review Medicare claims data and, based on our analysis, we are proposing the following DRG changes in MDC 5:

a. Heart Transplant (DRG 103)

As previously stated, cases are generally assigned to an MDC based on principal diagnosis and subsequently assigned to surgical or medical DRGs included in that MDC. However, cases involving liver, bone marrow, and lung transplants (DRGs 480, 481, and 495, respectively) and the two DRGs for tracheostomies (DRGs 482 and 483) are directly assigned on the basis of procedure codes. Cases assigned to these DRGs before classification to an MDC are referred to as pre-MDC. However, cases involving heart transplants are currently assigned first to MDC 5 and then to DRG 103.

Currently, when a bone marrow transplant and a heart transplant are performed during the same admission, the case is assigned to DRG 481 (Bone Marrow Transplant). Because bone marrow transplant cases are first classified to pre-MDC, while heart transplants are first assigned to MDC 5, the bone marrow transplant assumes precedence in the assignment of the case to a DRG. However, payment for DRG 481 is substantially less than DRG 103. For FY 2000, the relative weight for DRG 103 is 19.5100, while the relative weight for DRG 481 is 8.7285.

We reviewed the FY 1999 MedPAR file containing bills through December 31, 1999 and found no cases in which a bone marrow transplant and a heart transplant were performed in the same admission. However, to ensure appropriate DRG assignment of these cases, we are proposing that the heart transplant DRG, which encompasses combined heart-lung transplantation (ICD–9–CM procedure code 33.6) and heart transplantation (ICD–9–CM procedure code 37.5) be assigned to pre-MDC. In this way, cases involving a bone marrow transplant and a heart transplant would be assigned to DRG 103 (DRG 103 would be reordered higher in the pre-MDC surgical hierarchy, as discussed in section II.B.5. of this preamble).

b. Heart Assist Devices

We continue to review data in MDC 5 (Diseases and Disorders of the Circulatory System) to determine if cases are being assigned to the most appropriate DRG based on clinical coherence and similar resource consumption. At the December 1, 1994 ICD–9–CM Coordination and Maintenance Committee meeting, we recommended creation of new codes to capture single and bi-ventricular heart assist systems. These codes, 37.65 (Implant of an external, pulsatile heart assist system) and 37.66 (Implant of an implantable, pulsatile heart assist system), were adopted for use for discharges occurring on or after October 1, 1995. However, code 37.66 was deemed investigational and was not considered a covered procedure. Effective May 5, 1997, we revised Medicare coverage of heart assist devices to allow coverage of a ventricular assist device (code 37.66) used for support of blood circulation postcardiotomy if certain conditions were met.

Due to some residual misunderstanding regarding this coverage policy, we would like to emphasize that this device was and will continue to be listed as a noncovered procedure in the Medicare Code Editor (MCE), the front-end software product in the GROUPER program that detects and reports errors in the coding of claims data. The reason that this device is listed in the MCE, in spite of the fact that its implantation is covered, is because of the stringent conditions that must be met by hospitals in order to receive payment.

In the August 29, 1997 final rule (62 FR 45973), we moved procedure code 37.66 from DRGs 110 and 111 [1] (Major Cardiovascular Procedures with and without CCs, respectively) to DRG 108 (Other Cardiothoracic Procedures). As stated in the July 31, 1998 final rule (63 FR 40956), we moved procedure code 37.66 to DRGs 104 and 105 (Cardiac Valve and Other Major Cardiothoracic Procedures with and without CCs, respectively) for FY 1999.

In the July 30, 1999 final rule (64 FR 41498), we responded to a comment suggesting that heart assist devices be assigned to DRG 103. In further consideration of this issue, we have reviewed the 100 percent FY 1999 MedPAR file containing bills through December 31, 1999, and found that there were a total of 47 implantable heart assist system procedures performed on Medicare beneficiaries. Of these cases, 13 (approximately 28 percent) were assigned to DRG 103 (Heart Transplant) and four (approximately 9 percent) were assigned to DRG 483 (Tracheostomy Except for Face, Mouth and Neck Diagnoses), and, therefore, were paid at significantly higher rates than the remaining 30 cases. All of the procedure code 37.66 cases have extremely high charges, which is consistent with past

[1] A single title combined with two DRG numbers is used to signify pairs. Generally, the first DRG is for cases with CC and the second DRG is for cases without CC. If a third number is included, it represents cases with patients who are age 0–17. Occasionally, a pair of DRGs is split between age ≥17 and age 0–17.

analysis, and all of these cases are subject to payment as cost outliers.

Our data analysis indicates that the most cases in any one hospital is 5, while 17 hospitals performed only one heart assist system implant each. We reiterate that only heart transplant cases can be properly assigned to the transplant DRG (August 29, 1997 final rule (62 FR 45974)). Since heart assist devices are used across DRGs, many not involving a transplant, we are not proposing to assign procedure code 37.66 to DRG 103.

In addition to the review of 37.66, we also looked at procedure codes 37.62 (Implant of other heart assist system), 37.63 (Replacement and repair of heart assist system), and 37.65 (Implant of an external, pulsatile heart assist system). These cases are currently assigned to DRGs 110 and 111 (Major Cardiovascular Procedures). We believe that these procedures are similar both clinically and in terms of resource utilization to procedure code 37.66, which is already assigned to DRGs 104 and 105. Therefore, we propose to move codes 37.62, 37.63, and 37.65 from DRGs 110 and 111 to DRGs 104 and 105.

c. Platelet Inhibitors

Effective October 1, 1998, procedure code 99.20 (Injection or infusion of platelet inhibitor) was created. The use of platelet inhibitors have been shown to significantly decrease the rate of acute vessel closure, as well as the rate of cardiac complications and death. Platelet inhibitors are frequently administered to patients undergoing percutaneous transluminal coronary angioplasty (PTCA). In addition, patients admitted with unstable angina may also benefit from platelet inhibitors. This procedure code is designated as a non-OR procedure that does not affect DRG assignment (platelet inhibitors are administered either through intravenous injection or infusion).

For the past 2 years, a manufacturer of platelet inhibitors has submitted data to support its position that cases involving platelet inhibitor therapy receiving angioplasty should be reclassified from DRG 112 (Percutaneous Cardiovascular Procedures) to DRG 116 (Other Permanent Cardiac Pacemaker Implant or PTCA with Coronary Artery Stent Implant). In the July 30, 1999 final rule (64 FR 41503), we noted that we had received a new set of data from the platelet inhibitor manufacturer containing 27,673 cases from 164 hospitals in which Medicare patients underwent an angioplasty.

Included with the data were tables summarizing the results of the commenter's analysis of the data, showing that angioplasty cases receiving platelet inhibitor therapy are more expensive than those not receiving platelet inhibitors. According to the commenter, the approximate average standardized charges for the different classes of patients are as follows:

- No drug, no stent: $19,877.
- No drug, with stent: $22,968.
- Drug, no stent: $26,389.
- Drug, stent: $30,139.

Using the 100 percent FY 1999 MedPAR file that contains discharges through September 30, 1999, we performed analysis of the cases for which procedure code 99.20 was reported. There were a total of 37,222 cases spread across 123 DRGs.

The majority of the platelet inhibitor cases, 28,022 (75 percent of all platelet inhibitor cases), are *already* assigned to DRG 116. The average standardized charges for these cases are approximately $26,683, compared to approximately $25,251 for DRG 116 overall. In DRG 112, there were 4,310 platelet inhibitor cases (12 percent of all platelet inhibitor cases) assigned. The average standardized charge for these cases is approximately $22,786, compared to approximately $20,224 for DRG 112 overall. Although the platelet inhibitor therapy cases that are classified to DRG 112 do have somewhat higher charges than the average case assigned to this DRG (11 percent, or $2,563), we found several procedures in DRG 112 with average standardized charges higher than the platelet inhibitor cases. For example, there were 1,560 cases in which a single vessel PTCA or coronary atherectomy with thrombolytic agent (procedure code 36.02) was performed with an average standardized charge of approximately $25,181, and there were 4,951 cases in which a multiple vessel PTCA or coronary atherectomy was performed, with or without a thrombolytic agent (procedure code 36.05) with an average standardized charge of approximately $23,608.

We also noted that there are several procedures assigned to DRG 112 that have average standardized charges lower than the average charges for all cases in the DRG. For example, average charges for cases with procedure code 37.34 (Catheter ablation of lesion or tissues of heart) were $18,429. The following chart illustrates the variation among the average charges for DRG 112. This chart shows that the average charges for cases with procedure code 99.20 are well within the normal variation of other procedures.

DRG 112	Cases	Average standardized charges
Catheter ablation of lesion or tissues of heart (code 37.34)	6,972	$18,429
All cases within DRG 112	60,842	20,224
Injection or infusion of platelet inhibitor (code 99.20)	4,310	22,786
Multiple vessel PTCA or coronary atherectomy with or without mention of thrombolytic agent (code 36.05)	4,951	23,608
Single vessel PTCA or coronary atherectomy with mention of thrombolytic agent (code 36.02)	1,560	25,181

These examples indicate that there is always some variation in charges within a DRG. This difference in variations of charges is within the normal range of charge variations.

Clinical homogeneity within DRGs has always been a fundamental principle considered when assigning codes to appropriate DRGs. Currently, DRG 116 includes cases involving the insertion of a pacemaker as well as the insertion of coronary artery stents with PTCA. On the other hand, cases assigned to DRG 112 involve less invasive operating room and, in some cases, nonoperating room procedures.

The basis for DRG assignment has generally been the diagnosis of the patient or the procedures performed. To the extent the use of a particular technology becomes prevalent in the treatment of a particular type of case, the DRG system is designed to account for any increases or decreases in costs through recalibration. Hospitals frequently benefit from this process while efficiency-enhancing technology is being introduced. We believe that the update factors established in section 1886(b)(3)(B)(i) of the Act, combined with the potential for continuing improvements in hospital productivity, and annual recalibration of the DRG

weights, are adequate to finance appropriate care of Medicare patients.

We also received a comment from another manufacturer of platelet inhibitors whose therapy is targeted on acute coronary syndrome patients without coronary intervention. These cases are assigned to DRG 124 (Circulatory Disorders Except Acute Myocardial Infarction with Cardiac Catheterization and Complex Diagnosis) or DRG 140 (Angina Pectoris). The manufacturer's concern is that both types of cases, those performed in conjunction with coronary intervention and those without, be given an equal focus in this evaluation.

Based on our analysis, we found 410 platelet inhibitor cases (1 percent) assigned to DRG 124. This is a small percentage of cases in comparison to the overall total of 134,759 cases assigned to this DRG. The platelet inhibitor cases had an average standardized charge of approximately $17,378 compared to approximately $14,730 for DRG 124 overall. As we have illustrated above, there is always some variation in charges within a DRG and this difference is within normal variation.

There were 66 platelet inhibitor cases (0.2 percent) assigned to DRG 140. The average standardized charge for these cases is higher than the overall DRG charge, approximately $8,992 and $5,657, respectively. However, it represents a small percentage of the total (76,913) cases assigned to DRG 140.

In summary, currently 75 percent of cases where code 99.20 is present are assigned to DRG 116. The next most common DRG where these cases are assigned is DRG 112 (12 percent). Cases assigned to DRG 116 generally involve implantation of a pacemaker or artery stent, while cases assigned to DRG 112 involve percutaneous cardiovascular procedures. Our analysis found a $3,897 difference between cases involving platelet inhibitor therapy that were assigned to DRG 116 and cases assigned to DRG 112, indicating a clinical distinction between the cases grouping to the two DRGs. Finally, among platelet inhibitor therapy cases that are assigned to DRG 112, our analysis found that the average charges are well within the normal variation around the overall average charges within the DRG. Based on these findings, we do not believe it would be appropriate to assign all cases where procedure code 99.20 is present to DRG 116. Therefore, we are not proposing to change to our current policy which specifies that assignment of cases to this code does not affect the DRG assignment.

d. Extracorporeal Membrane Oxygenation

Extracorporeal Membrane Oxygenation (ECMO) is a cardiopulmonary bypass technique that provides long-term cardiopulmonary support to patients who have reversible cardiopulmonary insufficiency that has not responded to conventional management. It involves passing a patient's blood through an extracorporeal membrane oxygenator which adds oxygen and removes carbon dioxide. The oxygenated blood then is passed through a heat exchanger to warm it to body temperature prior to returning it to the patient. The process and equipment are similar to those used in open heart surgery, but are continued over prolonged periods of time. ECMO attempts to provide the patient with artificial cardiopulmonary function while his or her own cardiopulmonary functions are incapable of sustaining life.

Since ECMO involves the use of a device that sustains cardiopulmonary function while the underlying condition is being treated, it is important to identify and treat underlying conditions leading to cardiopulmonary failure if the patient is to return to normal cardiopulmonary function.

ECMO is assigned to procedure code 39.65 (Extracorporeal membrane oxygenation (ECMO)). This code is not recognized as an OR procedure within the DRG system and, therefore, does not affect payment. To evaluate the appropriateness of payment under the current DRG assignment, we have reviewed a 10-percent sample of Medicare claims in the FY 1999 MedPAR file and found only 4 cases in which ECMO was used. The charges for these cases ranged from $16,006 to $198,014. Since medical literature indicates that ECMO is predominately used on newborns and pediatric cases, this low number of claims is not surprising. Only in recent years have some hospitals started to use ECMO on adults. It is reserved for cases facing almost certain mortality.

Because ECMO is a procedure clinically similar to a heart assist device, we are proposing that procedure code 39.65 be classified as an OR procedure and be classified in DRGs 104 and 105 along with the heart assist system procedures (as discussed in section II.B.2.b. of this preamble). Those cases in which ECMO was provided, but for which the principal diagnosis is not classified to MDC 5, would then be assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis). This would be appropriate since it is possible that secondary conditions or complications may arise during hospitalization that would require the use of ECMO. The relatively high weight of DRG 468 would be appropriate for these cases.

3. MDC 15 (Newborns and Other Neonates With Conditions Originating in the Perinatal Period)

a. V05.8 (Vaccination for Disease, NEC)

DRG 390 (Neonate with Other Significant Problems) contains newborn or neonate cases with other significant problems, not assigned to DRGs 385 through 389, DRG 391, or DRG 469. In order to be classified into DRG 391 (Normal Newborn), the neonate must have a principal diagnosis as listed under DRG 391 and either no secondary diagnosis or a secondary diagnosis as listed under DRG 391. Neonates with a secondary diagnosis of V05.8 (Vaccination for disease, NEC) are currently classified to DRG 390. Although it would seem that healthy newborns who receive vaccinations and have no other problems should be classified to DRG 391, code V05.8 was not included as one of the secondary diagnoses under DRG 391, and therefore the case would not be classified as a normal newborn (DRG 391). Code V05.8 is assigned to DRG 390 as a default, since it is not included under another complicated neonate DRG or the normal newborn DRG.

Based on inquiries we have received, we reviewed the appropriateness of including diagnosis code V05.8 on the list of acceptable secondary diagnoses under DRG 390. It was pointed out that by including V05.8 on the acceptable secondary diagnosis list for DRG 390, newborns who receive vaccinations are classified as having significant health problems. The inquirers believed this incorrectly labels an otherwise healthy newborn as having a significant medical condition. Providing a vaccination to a newborn is performed to prevent the infant from contracting a disease.

We agree with the inquirers that, absent any evidence of disease, a newborn should not be considered as having a significant problem simply because a preventative vaccination was provided. Therefore, we are proposing that V05.8 be removed from the list of acceptable secondary diagnoses under DRG 390 and assigned as a secondary diagnosis under DRG 39l. In doing so, these cases would no longer be classified to DRG 390.

b. Diagnosis Code 666.02 (Third-stage Postpartum Hemorrhage, Delivered With Postpartum Complication)

Diagnosis code 666.02 is assigned to DRG 373 (Vaginal Delivery without Complicating Diagnosis). This DRG was created for uncomplicated vaginal deliveries. However, code 666.22 (Delayed and secondary postpartum hemorrhage, delivered with postpartum complication) is assigned to DRG 372 (Vaginal Delivery with Complicating Diagnoses). This means that mothers who had a delayed and secondary postpartum hemorrhage would be assigned to DRG 372, while mothers who had a third-stage postpartum hemorrhage would not be considered as a complicated delivery.

We believe a third-stage postpartum hemorrhage should be considered a complicating diagnosis and, in order to more appropriately categorize these cases, we are proposing that diagnosis code 666.02 be removed from DRG 373 and assigned as a complicating diagnosis under DRG 372.

c. Diagnosis Code 759.89 (Specified Congenital Anomalies, NEC) (Alport's Syndrome)

Alport's Syndrome (also referred to as hereditary nephritis) is an inherited disorder involving damage to the kidney, blood in the urine, and, in some cases, loss of hearing. It may also include loss of vision. Patients who are not treated early enough or who do not respond to treatment may progress to renal failure. A kidney transplant is one treatment option for these cases. As with many of the congenital anomalies, there is no unique ICD–9–CM code for this condition. Alport's Syndrome, along with many other rare and diverse congenital anomalies, is assigned to the rather nonspecific diagnosis code 759.89 (Specific congenital anomalies, NEC). Examples include William Syndrome, Brachio-Oto-Renal Syndrome, and Costello's Syndrome. Each of these is a unique hereditary disorder affecting a variety of body systems.

Patients can be diagnosed and treated for congenital anomalies throughout their lives; treatment is not restricted to the neonatal period. In our GROUPER, however, each diagnosis code is assigned to just one MDC. In this case, diagnosis code 759.89 is assigned to MDC 15 (Newborns and Other Neonates with Conditions Originating in the Perinatal Period) even though the patient may be an adult.

We have received a request from a physician concerning renal transplants for patients with Alport's Syndrome. The physician pointed out that when a patient with Alport's Syndrome is admitted for a kidney transplant, the case is assigned to DRG 390 (Neonate with Other Significant Problems). In these instances, when the principal diagnosis is code 759.89, the case is classified to MDC 15 even though the patient may no longer be a newborn. The physician believed that these cases should be assigned to DRG 302 (Kidney Transplant).

The inquirer suggested moving diagnosis code 759.89 to MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract) so that when a kidney transplant is performed, it will be assigned to DRG 302. Although this seems quite appropriate for patients with Alport's Syndrome found in diagnosis code 759.89, it does not work well for the wide variety of patients also described by this code. Many others would be inappropriately classified to MDC 11.

Alport's Syndrome cases with code 759.89 as a principal diagnosis who receive a kidney transplant are assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis). This DRG has a FY 2000 relative weight of 3.6400. Also for FY 2000, DRG 302 (Kidney Transplant) has a relative weight of 3.5669. Therefore, the payment amounts are in fact comparable.

There are several options for resolving this issue:

(1) If the case is assigned a principal diagnosis code of renal failure with Alport's Syndrome as a secondary diagnosis, the case could be assigned to DRG 302. As this option would represent a change in the sequencing of congenital anomaly codes and related complications, it would have to be evaluated and subsequently approved by the Editorial Advisory Board for *Coding Clinic for ICD–9–CM.* This Editorial Advisory Board contains representatives from the physician, coding, and hospital industry. Final decisions on coding policy issues are made by the representatives from the American Hospital Association, the American Health Information Management Association, the National Center for Health Statistics, and HCFA.

Since a change in sequencing of congenital anomaly codes and their manifestations and complications would require a change of coding policy, this issue was brought to the Editorial Advisory Board, which is currently evaluating it. A final decision on any proposed policy change would not be finalized and published in time for either this proposed rule or the final rule. Therefore, this option would not assist in immediately addressing the issue at hand.

(2) A unique ICD–9–CM diagnosis code could be created for Alport's Syndrome that could then be evaluated for possible assignment within MDC 11. This issue has been referred to the National Center for Health Statistics for consideration as a future coding modification.

One difficulty with this option is the large number of congenital anomalies and the limited number of unused codes in this section of ICD–9–CM. Each new code must be carefully evaluated for appropriateness.

(3) A third option, which was already addressed, involves moving diagnosis code 759.89 to MDC 11. The problem with this approach is that many cases would then be misassigned to MDC 11 because the congenital anomaly would not involve diseases of the kidney and urinary tract.

(4) A fourth option would be to leave the coding and DRG assignment as they currently exist. Since few cases exist, the overall impact may be minimal.

To evaluate the impact of leaving the DRG assignment as it currently exists, we examined data from a 10-percent sample of Medicare cases in the FY 1999 MedPAR file. There were 95 cases assigned to a wide range of DRGs with code 759.89 as a secondary diagnosis. There was only one case assigned to MDC 15 with a principal diagnosis of code 759.89.

We are recommending that diagnosis code 759.89 remain in MDC 15, since it encompasses such a wide variety of conditions. In addition, we are not proposing a change in the DRG assignment because the payment impact would be minimal and the cases few. We will continue to pursue the possibility of modifying the ICD–9–CM code as well as evaluating the coding rules.

4. MDC 17 (Myeloproliferative Diseases and Disorders and Poorly Differentiated Neoplasm)

Diagnosis code 273.8 (Disorders of plasma protein metabolism, NEC) is assigned to DRG 403 (Lymphoma and Nonacute Leukemia with CC) and DRG 404 (Lymphoma and Nonacute Leukemia without CC). A disorder of plasma protein metabolism does not mean one has a lymphoma with nonacute leukemia. An individual can have a disorder of plasma protein metabolism without having a lymphoma or leukemia.

We have received an inquiry on the appropriateness of including diagnosis code 273.8 in DRGs 403 and 404. The inquirer pointed out that disorders of

plasma protein metabolism are not lymphomas or leukemia. We agree that diagnosis code 273.8 is not a lymphoma or leukemia and is more closely related to DRG 413 (Other Myeloproliferative Disorders or Poorly Differentiated Neoplasm Diagnoses with CC) and DRG 414 (Other Myeloproliferative Disorders or Poorly Differentiated Neoplasm Diagnoses without CC).

We examined charge data drawn from cases assigned to diagnosis code 273.8 in a 10-percent sample of Medicare cases in the FY 1999 MedPAR file and found that the average charges for these cases were also more closely related to DRGs 413 and 414 than to DRGs 403 and 404, as demonstrated in the following chart.

DRGs 403/404 all cases in 10-percent sample			DRGs 413/414 all cases in 10-percent sample		
DRG	Count	Average charge	DRG	Count	Average charge
403	2,107	$17,617	413	387	$12,278
404	296	8,063	414	47	5,906

Code	DRG	Count	Average charge	Code	DRG	Count	Average charge
273.8	403	17	$8,573	273.8	404	3	$6,644

Therefore, we are proposing to move diagnosis code 273.8 from DRGs 403 and 404 to DRGs 413 and 414.

Diagnosis code 273.8 is also included in the following surgical DRGs that are performed on patients with lymphoma or leukemia:

- DRG 400 (Lymphoma and Leukemia with Major OR Procedure).
- DRG 401 (Lymphoma and Nonacute Leukemia with Other OR Procedure with CC).
- DRG 402 (Lymphoma and Nonacute Leukemia with Other OR Procedure without CC).

The same clinical issue would apply to these surgical DRGS performed on patients with lymphoma and leukemia. Code 273.8 should be assigned to the surgical DRGs for myeloproliferative disorders since the cases are clinically similar and, as stated before, code 273.8 is not clinically similar to lymphomas and leukemias. Therefore, we are also proposing that code 273.8 be removed from the surgical DRGs related to lymphoma and leukemia (DRGS 400, 401, and 402) and assigned to the following myeloproliferative surgical DRGS, based on the procedure performed:

- DRG 406 (Myeloproliferative Disorders or Poorly Differentiated Neoplasms with Major OR Procedures with CC).
- DRG 407 (Myeloproliferative Disorders Or Poorly Differentiated Neoplasms with Major OR Procedures without CC).
- DRG 408 (Myeloproliferative Disorders or Poorly Differentiated Neoplasms with Other OR Procedures).

5. Surgical Hierarchies

Some inpatient stays entail multiple surgical procedures, each one of which, occurring by itself, could result in assignment of the case to a different DRG within the MDC to which the principal diagnosis is assigned. Therefore, it is necessary to have a decision rule by which these cases are assigned to a single DRG. The surgical hierarchy, an ordering of surgical classes from most to least resource intensive, performs that function. Its application ensures that cases involving multiple surgical procedures are assigned to the DRG associated with the most resource-intensive surgical class.

Because the relative resource intensity of surgical classes can shift as a function of DRG reclassification and recalibration, we reviewed the surgical hierarchy of each MDC, as we have for previous reclassifications, to determine if the ordering of classes coincided with the intensity of resource utilization, as measured by the same billing data used to compute the DRG relative weights.

A surgical class can be composed of one or more DRGs. For example, in MDC 11, the surgical class ''kidney transplant'' consists of a single DRG (DRG 302) and the class ''kidney, ureter and major bladder procedures'' consists of three DRGs (DRGs 303, 304, and 305). Consequently, in many cases, the surgical hierarchy has an impact on more than one DRG. The methodology for determining the most resource-intensive surgical class involves weighting each DRG for frequency to determine the average resources for each surgical class. For example, assume surgical class A includes DRGs 1 and 2 and surgical class B includes DRGs 3, 4, and 5. Assume also that the average charge of DRG 1 is higher than that of DRG 3, but the average charges of DRGs 4 and 5 are higher than the average charge of DRG 2. To determine whether surgical class A should be higher or lower than surgical class B in the surgical hierarchy, we would weight the average charge of each DRG by frequency (that is, by the number of cases in the DRG) to determine average resource consumption for the surgical class. The surgical classes would then be ordered from the class with the highest average resource utilization to that with the lowest, with the exception of ''other OR procedures'' as discussed below.

This methodology may occasionally result in a case involving multiple procedures being assigned to the lower-weighted DRG (in the highest, most resource-intensive surgical class) of the available alternatives. However, given that the logic underlying the surgical hierarchy provides that the GROUPER searches for the procedure in the most resource-intensive surgical class, this result is unavoidable.

We note that, notwithstanding the foregoing discussion, there are a few instances when a surgical class with a lower average relative weight is ordered above a surgical class with a higher average relative weight. For example, the ''other OR procedures'' surgical class is uniformly ordered last in the surgical hierarchy of each MDC in which it occurs, regardless of the fact that the relative weight for the DRG or DRGs in that surgical class may be higher than that for other surgical classes in the MDC. The ''other OR procedures'' class is a group of procedures that are least likely to be related to the diagnoses in the MDC but are occasionally performed on patients with these diagnoses. Therefore, these procedures should only be considered if no other procedure more closely related to the diagnoses in the MDC has been performed.

A second example occurs when the difference between the average weights for two surgical classes is very small.

We have found that small differences generally do not warrant reordering of the hierarchy since, by virtue of the hierarchy change, the relative weights are likely to shift such that the higher-ordered surgical class has a lower average weight than the class ordered below it.

Based on the preliminary recalibration of the DRGs, we are proposing to modify the surgical hierarchy as set forth below. As we stated in the September 1, 1989 final rule (54 FR 36457), we are unable to test the effects of proposed revisions to the surgical hierarchy and to reflect these changes in the proposed relative weights due to the unavailability of the revised GROUPER software at the time the proposed rule is prepared. Rather, we simulate most major classification changes to approximate the placement of cases under the proposed reclassification and then determine the average charge for each DRG. These average charges then serve as our best estimate of relative resource use for each surgical class. We test the proposed surgical hierarchy changes after the revised GROUPER is received and reflect the final changes in the DRG relative weights in the final rule. Further, as discussed in section II.C of this preamble, we anticipate that the final recalibrated weights will be somewhat different from those proposed, since they will be based on more complete data. Consequently, further revision of the hierarchy, using the above principles, may be necessary in the final rule.

At this time, we are proposing to revise the surgical hierarchy for the pre-MDC DRGs, MDC 8 (Diseases and Disorders of the Musculoskeletal System and Connective Tissue), and MDC 10 (Endocrine, Nutritional, and Metabolic Diseases and Disorders) as follows:

- In the pre-MDC DRGs, as we stated previously, we are proposing to move DRG 103 (Heart Transplant) from MDC 5 to pre-MDC. We are proposing to reorder DRG 103 (Heart Transplant) above DRG 483 (Tracheostomy Except for Face, Mouth, and Neck Diagnoses).
- In the pre-MDC DRGs, we are proposing to reorder DRG 481 (Bone Marrow Transplant) above DRG 495 (Lung Transplant).
- In MDC 8, we are proposing to reorder DRG 230 (Local Excision and Removal of Internal Fixation Devices of Hip and Femur) above DRG 226 (Soft Tissue Procedures with CC) and DRG 227 (Soft Tissue Procedures without CC).
- In MDC 10, we are proposing to reorder DRG 288 (OR Procedures for Obesity) above DRG 285 (Amputation of Lower Limb for Endocrine, Nutritional, and Metabolic Disorders).

6. Refinement of Complications and Comorbidities (CC) List

In the September 1, 1987 final notice (52 FR 33143) concerning changes to the DRG classification system, we modified the GROUPER logic so that certain diagnoses included on the standard list of CCs would not be considered a valid CC in combination with a particular principal diagnosis. Thus, we created the CC Exclusions List. We made these changes for the following reasons: (1) To preclude coding of CCs for closely related conditions; (2) to preclude duplicative coding or inconsistent coding from being treated as CCs; and (3) to ensure that cases are appropriately classified between the complicated and uncomplicated DRGs in a pair. We developed this standard list of diagnoses using physician panels to include those diagnoses that, when present as a secondary condition, would be considered a substantial complication or comorbidity. In previous years, we have made changes to the standard list of CCs, either by adding new CCs or deleting CCs already on the list. At this time, we do not propose to delete any of the diagnosis codes on the CC list.

In the May 19, 1987 proposed notice (52 FR 18877) concerning changes to the DRG classification system, we explained that the excluded secondary diagnoses were established using the following five principles:

- Chronic and acute manifestations of the same condition should not be considered CCs for one another (as subsequently corrected in the September 1, 1987 final notice (52 FR 33154)).
- Specific and nonspecific (that is, not otherwise specified (NOS)) diagnosis codes for a condition should not be considered CCs for one another.
- Conditions that may not coexist, such as partial/total, unilateral/bilateral, obstructed/unobstructed, and benign/malignant, should not be considered CCs for one another.
- The same condition in anatomically proximal sites should not be considered CCs for one another.
- Closely related conditions should not be considered CCs for one another.

The creation of the CC Exclusions List was a major project involving hundreds of codes. The FY 1988 revisions were intended only as a first step toward refinement of the CC list in that the criteria used for eliminating certain diagnoses from consideration as CCs were intended to identify only the most obvious diagnoses that should not be considered complications or comorbidities of another diagnosis. For that reason, and in light of comments and questions on the CC list, we have continued to review the remaining CCs to identify additional exclusions and to remove diagnoses from the master list that have been shown not to meet the definition of a CC. (See the September 30, 1988 final rule (53 FR 38485) for the revision made for the discharges occurring in FY 1989; the September 1, 1989 final rule (54 FR 36552) for the FY 1990 revision; the September 4, 1990 final rule (55 FR 36126) for the FY 1991 revision; the August 30, 1991 final rule (56 FR 43209) for the FY 1992 revision; the September 1, 1992 final rule (57 FR 39753) for the FY 1993 revision; the September 1, 1993 final rule (58 FR 46278) for the FY 1994 revisions; the September 1, 1994 final rule (59 FR 45334) for the FY 1995 revisions; the September 1, 1995 final rule (60 FR 45782) for the FY 1996 revisions; the August 30, 1996 final rule (61 FR 46171) for the FY 1997 revisions; the August 29, 1997 final rule (62 FR 45966) for the FY 1998 revisions; and the July 31, 1998 final rule (63 FR 40954) for the FY 1999 revisions. In the July 30, 1999 final rule (64 FR 41490) we did not modify the CC Exclusions List for FY 2000 because we did not make any changes to the ICD–9–CM codes for FY 2000.

We are proposing a limited revision of the CC Exclusions List to take into account the changes that will be made in the ICD–9–CM diagnosis coding system effective October 1, 2000. (See section II.B.8. below, for a discussion of ICD–9–CM changes.) These proposed changes are being made in accordance with the principles established when we created the CC Exclusions List in 1987.

Tables 6F and 6G in section V. of the Addendum to this proposed rule contain the proposed revisions to the CC Exclusions List that would be effective for discharges occurring on or after October 1, 2000. Each table shows the principal diagnoses with proposed changes to the excluded CCs. Each of these principal diagnoses is shown with an asterisk and the additions or deletions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

CCs that are added to the list are in Table 6F—Additions to the CC Exclusions List. Beginning with discharges on or after October 1, 2000, the indented diagnoses will not be recognized by the GROUPER as valid CCs for the asterisked principal diagnosis.

CCs that are deleted from the list are in Table 6G—Deletions from the CC

Exclusions List. Beginning with discharges on or after October 1, 2000, the indented diagnoses will be recognized by the GROUPER as valid CCs for the asterisked principal diagnosis.

Copies of the original CC Exclusions List applicable to FY 1988 can be obtained from the National Technical Information Service (NTIS) of the Department of Commerce. It is available in hard copy for $92.00 plus $6.00 shipping and handling and on microfiche for $20.50, plus $4.00 for shipping and handling. A request for the FY 1988 CC Exclusions List (which should include the identification accession number (PB) 88–133970) should be made to the following address: National Technical Information Service, United States Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161; or by calling (703) 487–4650.

Users should be aware of the fact that all revisions to the CC Exclusions List (FYs 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 1999) and those in Tables 6F and 6G of this document must be incorporated into the list purchased from NTIS in order to obtain the CC Exclusions List applicable for discharges occurring on or after October 1, 2000. (Note: There was no CC Exclusions List in FY 2000 because we did not make changes to the ICD–9–CM codes for FY 2000.)

Alternatively, the complete documentation of the GROUPER logic, including the current CC Exclusions List, is available from 3M/Health Information Systems (HIS), which, under contract with HCFA, is responsible for updating and maintaining the GROUPER program. The current DRG Definitions Manual, Version 17.0, is available for $225.00, which includes $15.00 for shipping and handling. Version 18.0 of this manual, which includes the final FY 2001 DRG changes, will be available in October 2000 for $225.00. These manuals may be obtained by writing 3M/HIS at the following address: 100 Barnes Road, Wallingford, Connecticut 06492; or by calling (203) 949–0303. Please specify the revision or revisions requested.

7. Review of Procedure Codes in DRGs 468, 476, and 477

Each year, we review cases assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis), DRG 476 (Prostatic OR Procedure Unrelated to Principal Diagnosis), and DRG 477 (Nonextensive OR Procedure Unrelated to Principal Diagnosis) to determine whether it would be appropriate to change the procedures assigned among these DRGs.

DRGs 468, 476, and 477 are reserved for those cases in which none of the OR procedures performed is related to the principal diagnosis. These DRGs are intended to capture atypical cases, that is, those cases not occurring with sufficient frequency to represent a distinct, recognizable clinical group. DRG 476 is assigned to those discharges in which one or more of the following prostatic procedures are performed and are unrelated to the principal diagnosis:

60.0 Incision of prostate
60.12 Open biopsy of prostate
60.15 Biopsy of periprostatic tissue
60.18 Other diagnostic procedures on prostate and periprostatic tissue
60.21 Transurethral prostatectomy
60.29 Other transurethral prostatectomy
60.61 Local excision of lesion of prostate
60.69 Prostatectomy NEC
60.81 Incision of periprostatic tissue
60.82 Excision of periprostatic tissue
60.93 Repair of prostate
60.94 Control of (postoperative) hemorrhage of prostate
60.95 Transurethral balloon dilation of the prostatic urethra
60.99 Other operations on prostate

All remaining OR procedures are assigned to DRGs 468 and 477, with DRG 477 assigned to those discharges in which the only procedures performed are nonextensive procedures that are unrelated to the principal diagnosis. The original list of the ICD–9–CM procedure codes for the procedures we consider nonextensive procedures, if performed with an unrelated principal diagnosis, was published in Table 6C in section IV. of the Addendum to the September 30, 1988 final rule (53 FR 38591). As part of the final rules published on September 4, 1990 (55 FR 36135), August 30, 1991 (56 FR 43212), September 1, 1992 (57 FR 23625), September 1, 1993 (58 FR 46279), September 1, 1994 (59 FR 45336), September 1, 1995 (60 FR 45783), August 30, 1996 (61 FR 46173), and August 29, 1997 (62 FR 45981), we moved several other procedures from DRG 468 to 477, and some procedures from DRG 477 to 468. No procedures were moved in FY 1999, as noted in the July 31, 1998 final rule (63 FR 40962), or in FY 2000, as noted in the July 30, 1999 final rule (64 FR 41496).

a. Moving Procedure Codes From DRGs 468 or 477 to MDCs

We annually conduct a review of procedures producing assignment to DRG 468 or DRG 477 on the basis of volume, by procedure, to see if it would be appropriate to move procedure codes out of these DRGs into one of the surgical DRGs for the MDC into which the principal diagnosis falls. The data are arrayed two ways for comparison purposes. We look at a frequency count of each major operative procedure code. We also compare procedures across MDCs by volume of procedure codes within each MDC. That is, using procedure code 57.49 (Other transurethral excision or destruction of lesion or tissue of bladder) as an example, we determined that this particular code accounted for the highest number of major operative procedures (162 cases, or 9.8 percent of all cases) reported in the sample of DRG 477. In addition, we determined that procedure code 57.49 appeared in MDC 4 (Diseases and Disorders of the Respiratory System) 28 times as well as in 9 other MDCs.

Using a 10-percent sample of the FY 1999 MedPAR file, we determined that the quantity of cases in DRG 477 totaled 1,650. There were 106 instances where the major operative procedure appeared only once (6.4 percent of the time), resulting in assignment to DRG 477.

Using the same 10-percent sample of the FY 1999 MedPAR file, we reviewed DRG 468. There were a total of 3,858 cases, with one major operative code causing the DRG assignment 311 times (or 8 percent) and 230 instances where the major operative procedure appeared only once (or 6 percent of the time).

Our medical consultants then identified those procedures occurring in conjunction with certain principal diagnoses with sufficient frequency to justify adding them to one of the surgical DRGs for the MDC in which the diagnosis falls. Based on this year's review, we did not identify any necessary changes in procedures under either DRG 468 or 477 and, therefore, are not proposing to move any procedures from either DRG 468 or DRG 477 to one of the surgical DRGs.

b. Reassignment of Procedures Among DRGs 468, 476, and 477

We also annually review the list of ICD–9–CM procedures that, when in combination with their principal diagnosis code, result in assignment to DRGs 468, 476, and 477, to ascertain if any of those procedures should be moved from one of these DRGs to another of these DRGs based on average charges and length of stay. We look at the data for trends such as shifts in treatment practice or reporting practice that would make the resulting DRG assignment illogical. If our medical consultants were to find these shifts, we

would propose moving cases to keep the DRGs clinically similar or to provide payment for the cases in a similar manner. Generally, we move only those procedures for which we have an adequate number of discharges to analyze the data. Based on our review this year, we are not proposing to move any procedures from DRG 468 to DRGs 476 or 477, from DRG 476 to DRGs 468 or 477, or from DRG 477 to DRGs 468 or 476.

c. Adding Diagnosis Codes to MDCs

It has been brought to our attention that an ICD–9–CM diagnosis code should be added to DRG 482 (Tracheostomy for Face, Mouth and Neck Diagnoses) to preserve clinical coherence and homogeneity of the system. In the case of a patient who has a facial infection (diagnosis code 682.0 (Other cellulitis and abscess, Face)), the face may become extremely swollen and the patient's ability to breathe might be impaired. It might be deemed medically necessary to perform a temporary tracheostomy (procedure code 31.1) on the patient until the swelling subsides enough for the patient to once again breathe on his or her own.

The combination of diagnosis code 682.0 and procedure code 31.1 results in assignment to DRG 483 (Tracheostomy Except for Face, Mouth and Neck Diagnoses). The absence of diagnosis code 682.0 in DRG 483 forces the GROUPER algorithm to assign the case based solely on the procedure code, without taking this diagnosis into account. Clearly this was not the intent, as diagnosis code 682.0 should be included with other face, mouth and neck diagnosis. We believe that cases such as these would appropriately be assigned to DRG 482. Therefore, we are proposing to add diagnosis code 682.0 to the list of other face, mouth and neck diagnoses already in the principal diagnosis list in DRG 482.

8. Changes to the ICD–9–CM Coding System

As described in section II.B.1 of this preamble, the ICD–9–CM is a coding system that is used for the reporting of diagnoses and procedures performed on a patient. In September 1985, the ICD–9–CM Coordination and Maintenance Committee was formed. This is a Federal interdepartmental committee, co-chaired by the National Center for Health Statistics (NCHS) and HCFA, charged with maintaining and updating the ICD–9–CM system. The Committee is jointly responsible for approving coding changes, and developing errata, addenda, and other modifications to the ICD–9–CM to reflect newly developed procedures and technologies and newly identified diseases. The Committee is also responsible for promoting the use of Federal and non-Federal educational programs and other communication techniques with a view toward standardizing coding applications and upgrading the quality of the classification system.

The NCHS has lead responsibility for the ICD–9–CM diagnosis codes included in the *Tabular List* and *Alphabetic Index for Diseases*, while HCFA has lead responsibility for the ICD–9–CM procedure codes included in the *Tabular List* and *Alphabetic Index for Procedures.*

The Committee encourages participation in the above process by health-related organizations. In this regard, the Committee holds public meetings for discussion of educational issues and proposed coding changes. These meetings provide an opportunity for representatives of recognized organizations in the coding field, such as the American Health Information Management Association (AHIMA) (formerly American Medical Record Association (AMRA)), the American Hospital Association (AHA), and various physician specialty groups as well as physicians, medical record administrators, health information management professionals, and other members of the public to contribute ideas on coding matters. After considering the opinions expressed at the public meetings and in writing, the Committee formulates recommendations, which then must be approved by the agencies.

The Committee presented proposals for coding changes for FY 2000 at public meetings held on June 4, 1998 and November 2, 1998. Even though the Committee conducted public meetings and considered approval of coding changes for FY 2000 implementation, we did not implement any changes to ICD–9–CM codes for FY 2000 because of our major efforts to ensure that all of the Medicare computer systems were compliant with the year 2000. Therefore, the code proposals presented at the public meetings held on June 4, 1998 and November 2, 1998, that (if approved) ordinarily would have been included as new codes for October 1, 1999, were held for consideration for inclusion in this proposed annual update for FY 2001.

The Committee also presented proposals for coding changes for implementation in FY 2001 at public meetings held on May 13, 1999 and November 12, 1999, and finalized the coding changes after consideration of comments received at the meetings and in writing by January 7, 2000.

Copies of the Coordination and Maintenance Committee minutes of the 1999 meetings can be obtained from the HCFA Home Page by typing http://www.hcfa.gov/medicare/icd9cm.htm. Paper copies of these minutes are no longer available and the mailing list has been discontinued. We encourage commenters to address suggestions on coding issues involving diagnosis codes to: Donna Pickett, Co-Chairperson; ICD–9–CM Coordination and Maintenance Committee; NCHS; Room 1100; 6525 Belcrest Road; Hyattsville, Maryland 20782. Comments may be sent by E-mail to: dfp4@cdc.gov.

Questions and comments concerning the procedure codes should be addressed to: Patricia E. Brooks, Co-Chairperson; ICD–9–CM Coordination and Maintenance Committee; HCFA, Center for Health Plans and Providers, Purchasing Policy Group, Division of Acute Care; C4–07–07; 7500 Security Boulevard; Baltimore, Maryland 21244–1850. Comments may be sent by E-mail to: pbrooks@hcfa.gov.

The ICD–9–CM code changes that have been approved will become effective October 1, 2000. The new ICD–9–CM codes are listed, along with their proposed DRG classifications, in Tables 6A and 6B (New Diagnosis Codes and New Procedure Codes, respectively) in section VI. of the Addendum to this proposed rule. As we stated above, the code numbers and their titles were presented for public comment at the ICD–9–CM Coordination and Maintenance Committee meetings. Both oral and written comments were considered before the codes were approved. Therefore, we are soliciting comments only on the proposed DRG classification of these new codes.

Further, the Committee has approved the expansion of certain ICD–9–CM codes to require an additional digit for valid code assignment. Diagnosis codes that have been replaced by expanded codes or other codes, or have been deleted are in Table 6C (Invalid Diagnosis Codes). These invalid diagnosis codes will not be recognized by the GROUPER beginning with discharges occurring on or after October 1, 2000. For codes that have been replaced by new or expanded codes, the corresponding new or expanded diagnosis codes are included in Table 6A (New Diagnosis Codes). There were no procedure codes that were replaced by expanded codes or other codes, or were deleted. Revisions to diagnosis code titles are in Table 6D (Revised Diagnosis Code Titles), which also include the proposed DRG assignments

for these revised codes. Revisions to procedure code titles are in Table 6E (Revised Procedure Codes Titles).

9. Other Issues

a. Immunotherapy

Effective October 1, 1994, procedure code 99.28 (Injection or infusion of biologic response modifier (BRM) as an antineoplastic agent) was created and designated as a non-OR procedure that does not affect DRG assignment. This cancer treatment involving biological response modifiers is also known as BRM therapy or immunotherapy.

In response to a comment on the May 7, 1999 proposed rule, for the FY 2000 final rule we performed analysis of cases for which procedure code 99.28 was reported using the 100 percent FY 1998 MedPAR file. The commenter requested that we create a new DRG for BRM therapy or assign cases in which BRM therapy is performed to an existing DRG with a high relative weight. The commenter suggested that DRG 403 (Lymphoma and Nonacute Leukemia with CC) would be an appropriate DRG.

Based on the commenter's request, we examined cases only for hospitals that use the particular drug manufactured by the commenter. We concluded that due to the variation of charges across the cases and the limited number of cases distributed across 19 different DRGs, it would be inappropriate to classify these cases to a single DRG. For example, it would be inappropriate to classify these cases into DRG 403 because only a few cases were coded with a principal diagnosis assigned to MDC 17 (Myeloproliferative Diseases and Disorders, and Poorly Differentiated Neoplasm), the MDC that includes DRG 403. We stated in the July 30, 1999 final rule (64 FR 41497) that we would perform a full analysis of immunotherapy cases using the FY 1999 MedPAR data to determine if changes are needed.

Using 100 percent of the data in the FY 1999 MedPAR file, we performed an analysis of all cases for which procedure code 99.28 was reported. We identified 1,179 cases in 136 DRGs in 22 MDCs. No more than 141 cases were assigned to any one particular DRG.

Of the 1,179 cases, 141 cases (approximately 12 percent) were assigned to DRG 403 in MDC 17. We found approximately one-half of these cases had other procedures performed in addition to receiving immunotherapy, such as chemotherapy, bone marrow biopsy, insertion of totally implantable vascular access device, thoracentesis, or percutaneous abdominal drainage, which may account for the increased charges. There were 123 immunotherapy cases assigned to DRG 82 (Respiratory Neoplasms) in MDC 4 (Diseases and Disorders of the Respiratory System). We noted that, in some cases, in addition to immunotherapy, other procedures were performed, such as insertion of an intercostal catheter for drainage, thoracentesis, or chemotherapy.

There were 84 cases assigned to DRG 416 (Septicemia, Age >17) in MDC 18 (Infectious and Parasitic Diseases (Systemic or Unspecified Sites)). The principal diagnosis for this DRG is septicemia and, in addition to receiving treatment for septicemia, immunotherapy was also given. There were 79 cases assigned to DRG 410 (Chemotherapy without Acute Leukemia as Secondary Diagnosis) in MDC 17.

The cost of immunotherapy is averaged into the weight for these DRGS and, based on our analysis, we do not believe a reclassification of these cases is warranted. Due to the limited number of cases that were distributed throughout 136 DRGs in 22 MDCs and the variation of charges, we concluded that it would be inappropriate to classify these cases into a single DRG.

Although there were 141 cases assigned to DRG 403, it would be inappropriate to place all immunotherapy cases, regardless of diagnosis, into a DRG that is designated for lymphoma and nonacute leukemia. We establish DRGs based on clinical coherence and resource utilization. Each DRG encompasses a variety of cases, reflecting a range of services and a range of resources. Generally, then, each DRG reflects some higher cost cases and some lower cost cases. To the extent a new technology is extremely costly relative to the cases reflected in the DRG relative weight, the hospital might qualify for outlier payments, that is, additional payments over and above the standard prospective payment rate. We have not received any comments from hospitals regarding payment for immunotherapy cases.

b. Pancreas Transplant

Effective July 1, 1999, Medicare covers whole organ pancreas transplantation if the transplantation is performed simultaneously with or after a kidney transplant (procedure codes 55.69, Other kidney transplantation, and V42.0, Organ or tissue replaced by transplant, Kidney) (Transmittal No. 115, April 1999). We note that when we published the notification of this coverage in the July 30, 1999 final rule (64 FR 41497), we inadvertently made an error in announcing the covered codes. We cited the incorrect codes for pancreas transplantation as procedure code 52.80 (Pancreatic transplant, not otherwise specified) and 52.83 (Heterotransplant of pancreas). The correct procedure codes for pancreas transplantation are 52.80 (Pancreatic transplant, not otherwise specified) and 52.82 (Homotransplant of pancreas). We will revise the Coverage Issues Manual to reflect this correction.

Pancreas transplantation is generally limited to those patients with severe secondary complications of diabetes, including kidney failure. However, pancreas transplantation is sometimes performed on patients with labile diabetes and hypoglycemic unawareness. Pancreas transplantation for diabetic patients who have not experienced end-stage renal failure secondary to diabetes is excluded from coverage. Medicare also excludes coverage of transplantation of partial pancreatic tissue or islet cells.

In the July 30, 1999 final rule (64 FR 41497), we indicated that we planned to review discharge data to determine whether a new DRG should be created, or existing DRGs modified, to further classify pancreas transplantation in combination with kidney transplantation.

Under the current DRG classification, if a kidney transplant and a pancreas transplant are performed simultaneously on a patient with chronic renal failure secondary to diabetes with renal manifestations (diagnosis codes 250.40 through 250.43), the case is assigned to DRG 302 (Kidney Transplant) in MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract). If a pancreas transplant is performed following a kidney transplant (that is, during a different hospital admission) on a patient with chronic renal failure secondary to diabetes with renal manifestations, the case is assigned to DRG 468 (Extensive OR Procedure Unrelated to Principal Diagnosis). This is because pancreas transplant is not assigned to MDC 11, the MDC to which a principal diagnosis of chronic renal failure secondary to diabetes is assigned.

Using 100 percent of the data in the FY 1999 MedPAR file (which contains hospital bills through December 31, 1999), we performed an analysis of the cases for which procedure codes 52.80 and 52.83 were reported. We identified a total of 79 cases in 8 DRGs, in 3 MDCs, and in 1 pre-MDC. Of the 79 cases identified, 49 cases were assigned to DRG 302, 14 cases were assigned to DRG 468, and 8 cases were assigned to DRG 191 (Pancreas, Liver and Shunt

Procedures with CC). The additional 8 cases were distributed over 5 other assorted DRGs, and due to their disparity, were not considered in our evaluation.

We examined our data to determine whether we should propose a new kidney and pancreas transplant DRG at this time. We identified 49 such dual transplant cases in the FY 1999 MedPAR file. We do not believe this is a sufficient sample size to warrant the creation of a new DRG. Furthermore, we would note that nearly half of these cases occurred at a hospital in Maryland, which is not paid under the prospective payment system. The rest of the cases are spread across multiple hospitals, with no single hospital having more than 5 cases in the FY 1999 MedPAR.

C. Recalibration of DRG Weights.

We are proposing to use the same basic methodology for the FY 2001 recalibration as we did for FY 2000 (July 30, 1999 final rule (64 FR 41498)). That is, we would recalibrate the weights based on charge data for Medicare discharges. However, we propose to use the most current charge information available, the FY 1999 MedPAR file. (For the FY 2000 recalibration, we used the FY 1998 MedPAR file.) The MedPAR file is based on fully coded diagnostic and procedure data for all Medicare inpatient hospital bills.

The proposed recalibrated DRG relative weights are constructed from FY 1999 MedPAR data (discharges occurring between October 1, 1998 and September 30, 1999), based on bills received by HCFA through December 31, 1999, from all hospitals subject to the prospective payment system and short-term acute care hospitals in waiver States. The FY 1999 MedPAR file includes data for approximately 11,059,625 Medicare discharges.

The methodology used to calculate the proposed DRG relative weights from the FY 1999 MedPAR file is as follows:

- To the extent possible, all the claims were regrouped using the proposed DRG classification revisions discussed in section II.B of this preamble. As noted in section II.B.5, due to the unavailability of the revised GROUPER software, we simulated most major classification changes to approximate the placement of cases under the proposed reclassification. However, there are some changes that cannot be modeled.
- Charges were standardized to remove the effects of differences in area wage levels, indirect medical education and disproportionate share payments, and, for hospitals in Alaska and Hawaii, the applicable cost-of-living adjustment.
- The average standardized charge per DRG was calculated by summing the standardized charges for all cases in the DRG and dividing that amount by the number of cases classified in the DRG.
- We then eliminated statistical outliers, using the same criteria used in computing the current weights. That is, all cases that are outside of 3.0 standard deviations from the mean of the log distribution of both the charges per case and the charges per day for each DRG are eliminated.
- The average charge for each DRG was then recomputed (excluding the statistical outliers) and divided by the national average standardized charge per case to determine the relative weight. A transfer case is counted as a fraction of a case based on the ratio of its transfer payment under the per diem payment methodology to the full DRG payment for nontransfer cases. That is, transfer cases paid under the transfer methodology equal to half of what the case would receive as a nontransfer would be counted as 0.5 of a total case.
- We established the relative weight for heart and heart-lung, liver, and lung transplants (DRGs 103, 480, and 495) in a manner consistent with the methodology for all other DRGs except that the transplant cases that were used to establish the weights were limited to those Medicare-approved heart, heart-lung, liver, and lung transplant centers that have cases in the FY 1999 MedPAR file. (Medicare coverage for heart, heart-lung, liver, and lung transplants is limited to those facilities that have received approval from HCFA as transplant centers.)
- Acquisition costs for kidney, heart, heart-lung, liver, and lung transplants continue to be paid on a reasonable cost basis. Unlike other excluded costs, the acquisition costs are concentrated in specific DRGs (DRG 302 (Kidney Transplant); DRG 103 (Heart Transplant); DRG 480 (Liver Transplant); and DRG 495 (Lung Transplant)). Because these costs are paid separately from the prospective payment rate, it is necessary to make an adjustment to prevent the relative weights for these DRGs from including the acquisition costs. Therefore, we subtracted the acquisition charges from the total charges on each transplant bill that showed acquisition charges before computing the average charge for the DRG and before eliminating statistical outliers.

When we recalibrated the DRG weights for previous years, we set a threshold of 10 cases as the minimum number of cases required to compute a reasonable weight. We propose to use that same case threshold in recalibrating the DRG weights for FY 2001. Using the FY 1999 MedPAR data set, there are 40 DRGs that contain fewer than 10 cases. We computed the weights for these 40 low-volume DRGs by adjusting the FY 2000 weights of these DRGs by the percentage change in the average weight of the cases in the other DRGs.

The weights developed according to the methodology described above, using the proposed DRG classification changes, result in an average case weight that is different from the average case weight before recalibration. Therefore, the new weights are normalized by an adjustment factor (1.45431) so that the average case weight after recalibration is equal to the average case weight before recalibration. This adjustment is intended to ensure that recalibration by itself neither increases nor decreases total payments under the prospective payment system.

Section 1886(d)(4)(C)(iii) of the Act requires that, beginning with FY 1991, reclassification and recalibration changes be made in a manner that assures that the aggregate payments are neither greater than nor less than the aggregate payments that would have been made without the changes. Although normalization is intended to achieve this effect, equating the average case weight after recalibration to the average case weight before recalibration does not necessarily achieve budget neutrality with respect to aggregate payments to hospitals because payment to hospitals is affected by factors other than average case weight. Therefore, as we have done in past years and as discussed in section II.A.4.b. of the Addendum to this proposed rule, we are proposing to make a budget neutrality adjustment to assure that the requirement of section 1886(d)(4)(C)(iii) of the Act is met.

III. Proposed Changes to the Hospital Wage Index

A. Background

Section 1886(d)(3)(E) of the Act requires that, as part of the methodology for determining prospective payments to hospitals, the Secretary must adjust the standardized amounts ''for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.'' In accordance with the broad discretion conferred under the Act, we currently define hospital labor market areas based on the definitions of Metropolitan

Statistical Areas (MSAs), Primary MSAs (PMSAs), and New England County Metropolitan Areas (NECMAs) issued by the Office of Management and Budget (OMB). The OMB also designates Consolidated MSAs (CMSAs). A CMSA is a metropolitan area with a population of one million or more, comprising two or more PMSAs (identified by their separate economic and social character). For purposes of the hospital wage index, we use the PMSAs rather than CMSAs since they allow a more precise breakdown of labor costs. If a metropolitan area is not designated as part of a PMSA, we use the applicable MSA. Rural areas are areas outside a designated MSA, PMSA, or NECMA. For purposes of the wage index, we combine all of the rural counties in a State to calculate a rural wage index for that State.

We note that effective April 1, 1990, the term Metropolitan Area (MA) replaced the term MSA (which had been used since June 30, 1983) to describe the set of metropolitan areas consisting of MSAs, PMSAs, and CMSAs. The terminology was changed by OMB in the March 30, 1990 **Federal Register** to distinguish between the individual metropolitan areas known as MSAs and the set of all metropolitan areas (MSAs, PMSAs, and CMSAs) (55 FR 12154). For purposes of the prospective payment system, we will continue to refer to these areas as MSAs.

Beginning October 1, 1993, section 1886(d)(3)(E) of the Act requires that we update the wage index annually. Furthermore, this section provides that the Secretary base the update on a survey of wages and wage-related costs of short-term, acute care hospitals. The survey should measure, to the extent feasible, the earnings and paid hours of employment by occupational category, and must exclude the wages and wage-related costs incurred in furnishing skilled nursing services. As discussed below in section III.F of this preamble, we also take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Act when calculating the wage index.

B. FY 2001 Wage Index Update

The proposed FY 2001 wage index values in section VI of the Addendum to this proposed rule (effective for hospital discharges occurring on or after October 1, 2000 and before October 1, 2001) are based on the data collected from the Medicare cost reports submitted by hospitals for cost reporting periods beginning in FY 1997 (the FY 2000 wage index was based on FY 1996 wage data).

The proposed FY 2001 wage index includes the following categories of data associated with costs paid under the hospital inpatient prospective payment system (as well as outpatient costs), which were also included in the FY 2000 wage index:

- Salaries and hours from short-term, acute care hospitals.
- Home office costs and hours.
- Certain contract labor costs and hours.
- Wage-related costs.

Consistent with the wage index methodology for FY 2000, the proposed wage index for FY 2001 also continues to exclude the direct and overhead salaries and hours for services not paid through the inpatient prospective payment system such as skilled nursing facility services, home health services, or other subprovider components that are not subject to the prospective payment system.

We calculate a separate Puerto Rico-specific wage index and apply it to the Puerto Rico standardized amount. (See 62 FR 45984 and 46041.) This wage index is based solely on Puerto Rico's data. Finally, section 4410 of Public Law 105–33 provides that, for discharges on or after October 1, 1997, the area wage index applicable to any hospital that is not located in a rural area may not be less than the area wage index applicable to hospitals located in rural areas in that State.

C. FY 2001 Wage Index Proposal

Because it is used to adjust payments to hospitals under the prospective payment system, the hospital wage index should, to the extent possible, reflect the wage costs associated with the areas of the hospital included under the hospital inpatient prospective payment system. In response to concerns within the hospital community related to the removal from the wage index calculation costs related to graduate medical education (GME) (teaching physicians and residents), and certified registered nurse anesthetists (CRNAs), which are paid by Medicare separately from the prospective payment system, the American Hospital Association (AHA) convened a workgroup to develop a consensus recommendation on this issue. The workgroup recommended that costs related to GME and CRNAs be phased out of the wage index calculation over a 5-year period. Based upon our analysis of hospitals' FY 1996 wage data, and consistent with the AHA workgroup's recommendation, we specified in the July 30, 1999 final rule (64 FR 41505) that we would phase-out these costs from the calculation of the wage index over a 5-year period, beginning in FY 2000. In keeping with the decision to phase-out costs related to GME and CRNAs, the proposed FY 2001 wage index is based on a blend of 60 percent of an average hourly wage including these costs, and 40 percent of an average hourly wage excluding these costs.

1. Teaching Physician Costs and Hours Survey

As discussed in the July 30, 1999 final rule, because the FY 1996 cost reporting data did not separate teaching physician costs from other physician Part A costs, we instructed our fiscal intermediaries to survey teaching hospitals to collect data on teaching physician costs and hours payable under the per resident amounts (§ 413.86) and reported on Worksheet A, Line 23 of the hospitals' cost report.

The FY 1997 cost reports also do not separately report teaching physician costs. Therefore, we once again conducted a special survey to collect data on these costs. (For the FY 1998 cost reports, we have revised the Worksheet S–3, Part II so that hospitals can separately report teaching physician Part A costs. Therefore, after this year, it will no longer be necessary for us to conduct this special survey.)

The survey data collected as of mid-January 2000 were included in the preliminary public use data file made available on the Internet in February 2000 at HCFA's home page (http://www.hcfa.gov). At that time, we had received teaching physician data for 459 out of 770 teaching hospitals reporting physician Part A costs on their Worksheet S–3, Part II. Also, in some cases, intermediaries reported that teaching hospitals did not incur teaching physician costs. In early January 2000, we instructed intermediaries to review the survey data for consistency with the Supplemental Worksheet A–8–2 of the hospitals' cost reports. Supplemental Worksheet A–8–2 is used to apply the reasonable compensation equivalency limits to the costs of provider-based physicians, itemizing these costs by the corresponding line number on Worksheet A.

When we notified the hospitals, through our fiscal intermediaries, that they could review the survey data on the Internet, we also notified hospitals that requests for changes to the teaching survey data must be submitted by March 6, 2000. We instructed fiscal intermediaries to review the requests for changes received from hospitals and submit necessary data revisions to HCFA by April 3, 2000.

We removed from the wage data the physician Part A teaching costs and hours reported on the survey form for every hospital that completed the survey. These data had been verified by the fiscal intermediary before submission to HCFA. We have identified 42 teaching hospitals in our database that reported physician Part A costs on Line 4 of their Worksheet S–3 and teaching-related costs on Line 23 of Worksheet A, Column 1, but for which we do not have teaching physician costs from the survey because the hospitals failed to complete the survey. As we did in the case of such hospitals in calculating the FY 2000 wage index, for purposes of calculating the FY 2001 wage index, we propose to subtract the costs reported on Line 23 of the Worksheet A, Column 1 (GME Other Program Costs) from Line 1 of the Worksheet S–3. These costs (from Line 23, Column 1 of Worksheet A) are included in Line 1 of the Worksheet S–3, which is the sum of Column 1, Worksheet A. They also represent costs for which the hospital is paid through the per resident amount under the direct GME payment. To determine the hours to be removed, the costs reported on Line 23 of the Worksheet A, Column 1 would be divided by the national average hourly wage for teaching physicians based upon the survey of $65.62.

For the FY 2000 wage index, the AHA workgroup recommended that, if reliable teaching physician data were not available for removing teaching costs from hospitals' total physician Part A costs, HCFA should remove 80 percent of the costs and hours reported by hospitals attributable to physicians' Part A services. In calculating the FY 2000 wage index, if we did not receive survey data for a teaching hospital, we removed 80 percent of the hospital's reported total physician Part A costs and hours from the calculation. For the FY 2001 wage index, we are proposing a different approach. In some instances, fiscal intermediaries have verified that teaching hospitals do not have teaching physician costs; for these hospitals, it is not necessary to adjust the hospitals' physician Part A costs. We are actively conferring with the fiscal intermediaries to distinguish teaching hospitals that do not have teaching physician costs from teaching hospitals that have not identified the portion of their physician Part A costs associated with teaching physicians (that is, hospitals that did not complete the teaching survey and did not report teaching-related costs on Worksheet A, Line 23). We propose to remove 100 percent of the physician Part A costs and hours (reported on Worksheet S–3, Lines 4, 10, 12, and 18) in the FY 2001 wage index calculation for those hospitals where the fiscal intermediary verifies that the hospital has otherwise unidentified teaching physician costs included in physician Part A costs and hours.

It should be noted that Line 23 of Worksheet A, Column 1, flows directly into hospitals' total salaries on Worksheet S–3, Part II. Line 23 contains GME costs not directly attributable to residents' salaries or fringe benefits. Therefore, these costs tend to be costs associated with teaching physicians. To the extent a hospital fails to separately identify the proportion of its Line 23 Worksheet A costs associated with teaching physicians, we believe it is reasonable to remove all of these costs under the presumption that they are all associated with teaching physicians.

Thus, for the proposed wage index, we are either using the data submitted on the teaching physician survey or, in the absence of such data, removing the amount reported on Line 23 of Worksheet A, Column 1 or removing 100 percent of physician Part A costs reported on Worksheet S–3.

2. Nurse Practitioner and Clinical Nurse Specialist Costs

The current wage index includes salaries and wage-related costs for nurse practitioners (NPs) and clinical nurse specialists (CNSs) who, similar to physician assistants and CRNAs (unless at hospitals under the rural pass-through exception for CRNAs), are paid under the physician fee schedule. Over the past year, we have received several inquiries from hospitals and fiscal intermediaries regarding NP costs and how they should be handled for purposes of the hospital wage index. Because Medicare generally pays for NP and CNS costs under Part B outside the hospital prospective payment system, removing NP and CNS Part B costs from the wage index calculation would be consistent with our general policy to exclude, to the extent possible, costs that are not paid through the hospital prospective payment system. Because NP and CNS costs are not separately reported on the Worksheet S–3 for FYs 1997, 1998, and 1999, the FY 2000 Worksheet S–3 and cost reporting instructions will be revised to allow for separate reporting of NP and CNS Part A and Part B costs. We will exclude the Part B costs beginning with the FY 2004 wage index. These services are pervasive in both rural and urban settings. As such, we believe there will be no significant overall impact resulting from the removal of Part B costs for NPs and CNSs.

3. Severance and Bonus Pay Costs

On October 6, 1999, we issued a memorandum to hospitals and intermediaries regarding our policy on treatment of severance and bonus pay costs in developing the wage index, effective beginning with the FY 2001 wage index. (The hospital cost report instructions also will be amended to reflect our policy on these costs.) We stated that severance pay costs may be included on Worksheet S–3 as salaries on Part II, Line 1, only if the associated hours are included. If the hospital has no accounting of the hours, or if the costs are not based on hours, the severance pay costs may not be included in the wage index. On the other hand, bonus pay costs may be included in the cost report on Line 1 of Worksheet S–3 with no corresponding hours. Due to the inquiries we continue to receive from hospitals regarding the inclusion of severance pay costs on cost reports, we are clarifying our policy in this proposed rule.

Hospitals vary in their accounting of severance pay costs. Some hospitals base the amounts to be paid on hours, for example, 80 hours worth of pay. Others do not; for example, a 15-year employee may be offered a $25,000 buyout package. Some hospitals record associated hours; others do not. The Wage Index Workgroup has suggested that we not include any severance pay costs in the wage index calculation, that these costs are for terminated employees, and, therefore, they should be considered an administrative rather than a salary expense.

Severance pay costs can be substantial amounts, particularly in periods of downsizing. We believe that, if severance pay costs are included with no associated hours, the wage index, which is a relative measure of wage costs across labor market areas, would be distorted.

Severance pay costs are included in the proposed FY 2001 wage index as a salary cost to the extent that associated hours are also reported. However, we are soliciting public comments on this issue.

4. Health Insurance and Health-Related Costs

In the September 1, 1994 final rule (59 FR 45356), we stated that health insurance, purchased or self-insurance, is a core wage-related cost. Over the past year, we have received several inquiries from hospitals and hospital associations requesting that we define ''purchased health insurance costs.'' In response, in

this proposed rule, we are clarifying that, for wage index purposes, we define ''purchased health insurance costs'' as the premiums and administrative costs a hospital pays on behalf of its employees for health insurance coverage. ''Self-insurance'' includes the hospital's costs (not charges) for covered services delivered to its employees, less any amounts paid by the employees, and less the personnel costs for hospital staff who delivered the services (these costs are already included in the wage index). For purchased health insurance and self-health insurance, the included costs must be for services covered in a health insurance plan.

Also, in the September 1, 1994 final rule (59 FR 45357), we addressed a comment about the inclusion of health-related costs in the calculation of the wage index. Such health-related costs include employee physical examinations, flu shots, and clinic visits, and other services that are not covered by employees' health insurance plans but are provided at no cost or at discounted rates to employees of the hospital. We are clarifying that the costs for these services may be included as an ''other'' wage-related cost if (among other criteria), when all such health-related costs are combined, the total of such costs is greater than 1 percent of the hospital's total salaries (less excluded area salaries). As discussed in the September 1, 1994 final rule (59 FR 45357), a cost may be allowable as an ''other wage-related cost'' if it meets certain criteria. Under one criterion, the wage-related cost must be greater than 1 percent of total salaries (less excluded area salaries). For purposes of applying this 1-percent test with respect to the health-related costs at issue here, we look at the combined total of the health-related costs (not charges) for services delivered to its employees, less any amounts employees paid, and less the personnel costs for hospital staff who delivered the services (as these costs are already included in the wage index).

5. Elimination of Wage Costs Associated With Rural Health Clinics and Federally Qualified Health Centers

The current hospital wage index includes the salaries and wage-related costs of hospital-based rural health clinics (RHCs) and federally qualified health centers (FQHCs). However, Medicare pays for these costs outside the hospital inpatient prospective payment system. Effective January 1, 1998, under section 1833(f) of the Act, as amended by section 4205 of Public Law 105–33, Medicare pays both hospital-based and freestanding RHCs and FQHCs on a cost-per-visit basis. Medicare cost reporting forms for RHCs and FQHCs were revised to reflect this legislative change, beginning with cost reporting periods ending on or after September 30, 1998 (the FY 1998 cost report). Other cost-reimbursed outpatient departments, such as ambulatory surgical centers, community mental health centers, and comprehensive outpatient rehabilitation facilities, are presently excluded from the wage index. Therefore, consistent with our wage index refinements that exclude, to the extent possible, costs associated with services not paid under the hospital inpatient prospective payment system, we believe it would be appropriate to exclude all salary costs associated with RHCs and FQHCs from the wage index calculation if we had feasible, reliable data for such exclusion.

Because RHC and FQHC costs are not separately reported on the Worksheet S–3 for FYs 1997, 1998, and 1999, we cannot exclude these costs from the FY 2001, FY 2002, or FY 2003 wage indexes. Therefore, we will revise the FY 2000 Worksheet S–3 to begin providing for the separate reporting of RHC and FQHC salaries, wage-related costs, and hours. We will evaluate the wage data for RHCs and FQHCs in developing the FY 2004 wage index.

D. Verification of Wage Data From the Medicare Cost Report

The data for the proposed FY 2001 wage index were obtained from Worksheet S–3, Parts II and III of the FY 1997 Medicare cost reports. The data file used to construct the proposed wage index includes FY 1997 data submitted to HCFA as of mid-February 2000. As in past years, we performed an intensive review of the wage data, mostly through the use of edits designed to identify aberrant data.

We asked our fiscal intermediaries to revise or verify data elements that resulted in specific edit failures. Some unresolved data elements are included in the calculation of the proposed FY 2001 wage index pending their resolution before calculation of the final FY 2001 wage index. We have instructed the intermediaries to complete their verification of questionable data elements and to transmit any changes to the wage data (through HCRIS) no later than April 3, 2000. We expect that all unresolved data elements will be resolved by that date. The revised data will be reflected in the final rule.

Also, as part of our editing process, we removed data for 19 hospitals that failed edits. For two of these hospitals, we were unable to obtain sufficient documentation to verify or revise the data because the hospitals are no longer participating in the Medicare program or are in bankruptcy status. Four hospitals had negative average hourly wages after allocating overhead to their excluded areas and, therefore, were removed from the calculation. The data from the remaining 13 hospitals also failed the edits and were removed. The data for these hospitals will be included in the final wage index if we receive corrected data that pass our edits. As a result, the proposed FY 2001 wage index is calculated based on FY 1997 wage data for 4,926 hospitals.

E. Computation of the Proposed FY 2001 Wage Index

The method used to compute the proposed FY 2001 wage index is as follows:

Step 1—As noted above, we are proposing to base the FY 2001 wage index on wage data reported on the FY 1997 Medicare cost reports. We gathered data from each of the non-Federal, short-term, acute care hospitals for which data were reported on the Worksheet S–3, Parts II and III of the Medicare cost report for the hospital's cost reporting period beginning on or after October 1, 1996 and before October 1, 1997. In addition, we included data from a few hospitals that had cost reporting periods beginning in September 1996 and reported a cost reporting period exceeding 52 weeks. These data were included because no other data from these hospitals would be available for the cost reporting period described above, and because particular labor market areas might be affected due to the omission of these hospitals. However, we generally describe these wage data as FY 1997 data. We note that, if a hospital had more than one cost reporting period beginning during FY 1997 (for example, a hospital had two short cost reporting periods beginning on or after October 1, 1996 and before October 1, 1997), we included wage data from only one of the cost reporting periods, the longest, in the wage index calculation. If there was more than one cost reporting period and the periods were equal in length, we included the wage data from the latest period in the wage index calculation.

Step 2—Salaries—The method used to compute a hospital's average hourly wage is a blend of 60 percent of the hospital's average hourly wage including all GME and CRNA costs, and 40 percent of the hospital's average hourly wage after eliminating all GME and CRNA costs.

In calculating a hospital's average salaries plus wage-related costs,

including all GME and CRNA costs, we subtracted from Line 1 (total salaries) the Part B salaries reported on Lines 3 and 5, home office salaries reported on Line 7, and excluded salaries reported on Lines 8 and 8.01 (that is, direct salaries attributable to skilled nursing facility services, home health services, and other subprovider components not subject to the prospective payment system). We also subtracted from Line 1 the salaries for which no hours were reported on Lines 2, 4, and 6. To determine total salaries plus wage-related costs, we added to the net hospital salaries the costs of contract labor for direct patient care, certain top management, and physician Part A services (Lines 9 and 10), home office salaries and wage-related costs reported by the hospital on Lines 11 and 12, and nonexcluded area wage-related costs (Lines 13, 14, 16, 18, and 20).

We note that contract labor and home office salaries for which no corresponding hours are reported were not included. In addition, wage-related costs for specific categories of employees (Lines 16, 18, and 20) are excluded if no corresponding salaries are reported for those employees (Lines 2, 4, and 6, respectively).

We then calculated a hospital's salaries plus wage-related costs by subtracting from total salaries the salaries plus wage-related costs for teaching physicians, Part A CRNAs (Lines 2 and 16), and residents (Lines 6 and 20).

Step 3—Hours—With the exception of wage-related costs, for which there are no associated hours, we computed total hours using the same methods as described for salaries in Step 2.

Step 4—For each hospital reporting both total overhead salaries and total overhead hours greater than zero, we then allocated overhead costs. First, we determined the ratio of excluded area hours (sum of Lines 8 and 8.01 of Worksheet S–3, Part II) to revised total hours (Line 1 minus the sum of Part II, Lines 3, 5, and 7 and Part III, Line 13 of Worksheet S–3). We then computed the amounts of overhead salaries and hours to be allocated to excluded areas by multiplying the above ratio by the total overhead salaries and hours reported on Line 13 of Worksheet S–3, Part III. Finally, we subtracted the computed overhead salaries and hours associated with excluded areas from the total salaries and hours derived in Steps 2 and 3.

Step 5—For each hospital, we adjusted the total salaries plus wage-related costs to a common period to determine total adjusted salaries plus wage-related costs. To make the wage adjustment, we estimated the percentage change in the employment cost index (ECI) for compensation for each 30-day increment from October 14, 1996 through April 15, 1998 for private industry hospital workers from the Bureau of Labor Statistics' *Compensation and Working Conditions.* We use the ECI because it reflects the price increase associated with total compensation (salaries plus fringes) rather than just the increase in salaries. In addition, the ECI includes managers as well as other hospital workers. This methodology to compute the monthly update factors uses actual quarterly ECI data and assures that the update factors match the actual quarterly and annual percent changes. The factors used to adjust the hospital's data were based on the midpoint of the cost reporting period, as indicated below.

MIDPOINT OF COST REPORTING PERIOD

After	Before	Adjustment factor
10/14/96	11/15/96	1.02848
11/14/96	12/15/96	1.02748
12/14/96	01/15/97	1.02641
01/14/97	02/15/97	1.02521
02/14/97	03/15/97	1.02387
03/14/97	04/15/97	1.02236
04/14/97	05/15/97	1.02068
05/14/97	06/15/97	1.01883
06/14/97	07/15/97	1.01695
07/14/97	08/15/97	1.01520
08/14/97	09/15/97	1.01357
09/14/97	10/15/97	1.01182
10/14/97	11/15/97	1.00966
11/14/97	12/15/97	1.00712
12/14/97	01/15/98	1.00451
01/14/98	02/15/98	1.00213
02/14/98	03/15/98	1.00000
03/14/98	04/15/98	0.99798

For example, the midpoint of a cost reporting period beginning January 1, 1997 and ending December 31, 1997 is June 30, 1997. An adjustment factor of 1.01695 would be applied to the wages of a hospital with such a cost reporting period. In addition, for the data for any cost reporting period that began in FY 1997 and covers a period of less than 360 days or more than 370 days, we annualized the data to reflect a 1-year cost report. Annualization is accomplished by dividing the data by the number of days in the cost report and then multiplying the results by 365.

Step 6—Each hospital was assigned to its appropriate urban or rural labor market area before any reclassifications under section 1886(d)(8)(B) or section 1886(d)(10) of the Act. Within each urban or rural labor market area, we added the total adjusted salaries plus wage-related costs obtained in Step 5 (with and without GME and CRNA costs) for all hospitals in that area to determine the total adjusted salaries plus wage-related costs for the labor market area.

Step 7—We divided the total adjusted salaries plus wage-related costs obtained under both methods in Step 6 by the sum of the corresponding total hours (from Step 4) for all hospitals in each labor market area to determine an average hourly wage for the area.

Because the proposed FY 2001 wage index is based on a blend of average hourly wages, we then added 60 percent of the average hourly wage calculated without removing GME and CRNA costs, and 40 percent of the average hourly wage calculated with these costs excluded.

Step 8—We added the total adjusted salaries plus wage-related costs obtained in Step 5 for all hospitals in the nation and then divided the sum by the national sum of total hours from Step 4 to arrive at a national average hourly wage (using the same blending methodology described in Step 7). Using the data as described above, the national average hourly wage is $21.6988.

Step 9—For each urban or rural labor market area, we calculated the hospital wage index value by dividing the area average hourly wage obtained in Step 7 by the national average hourly wage computed in Step 8.

Step 10—Following the process set forth above, we developed a separate Puerto Rico-specific wage index for purposes of adjusting the Puerto Rico standardized amounts. (The national Puerto Rico standardized amount is adjusted by a wage index calculated for all Puerto Rico labor market areas based on the national average hourly wage as described above.) We added the total adjusted salaries plus wage-related costs (as calculated in Step 5) for all hospitals in Puerto Rico and divided the sum by the total hours for Puerto Rico (as calculated in Step 4) to arrive at an overall average hourly wage of $9.9667 for Puerto Rico. For each labor market area in Puerto Rico, we calculated the Puerto Rico-specific wage index value by dividing the area average hourly wage (as calculated in Step 7) by the overall Puerto Rico average hourly wage.

Step 11—Section 4410 of Public Law 105–33 provides that, for discharges on or after October 1, 1997, the area wage index applicable to any hospital that is located in an urban area may not be less than the area wage index applicable to hospitals located in rural areas in that State. Furthermore, this wage index floor is to be implemented in such a manner as to assure that aggregate

prospective payment system payments are not greater or less than those that would have been made in the year if this section did not apply. For FY 2001, this change affects 241 hospitals in 41 MSAs. The MSAs affected by this provision are identified in Table 4A by a footnote.

F. Revisions to the Wage Index Based on Hospital Redesignation

Under section 1886(d)(8)(B) of the Act, hospitals in certain rural counties adjacent to one or more MSAs are considered to be located in one of the adjacent MSAs if certain standards are met. Under section 1886(d)(10) of the Act, the Medicare Geographic Classification Review Board (MGCRB) considers applications by hospitals for geographic reclassification for purposes of payment under the prospective payment system.

Under section 152 of Public Law 106–113, hospitals in certain counties are deemed to be located in specified areas for purposes of payment under the hospital inpatient prospective payment system, for discharges occurring on or after October 1, 2000. For payment purposes, these hospitals are to be treated as though they were reclassified for purposes of both the standardized amount and the wage index. We are proposing to calculate FY 2001 wage indexes for hospitals in the affected counties as if they were reclassified to the specified area.

For purposes of making payments under section 1886(d) of the Act for FY 2001, section 152 provides the following:

- Iredell County, North Carolina is deemed to be located in the Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina MSA;
- Orange County, New York is deemed to be located in the New York, New York MSA;
- Lake County, Indiana and Lee County, Illinois are deemed to be located in the Chicago, Illinois MSA;
- Hamilton-Middletown, Ohio is deemed to be located in the Cincinnati, Ohio-Kentucky-Indiana MSA;
- Brazoria County, Texas is deemed to be located in the Houston, Texas MSA;
- Chittenden County, Vermont is deemed to be located in the Boston-Worcester-Lawrence-Lowell-Brockton, Massachusetts-New Hampshire MSA.

Section 152 also requires that these reclassifications be treated for FY 2001 as though they are reclassification decisions by the MGCRB. Therefore, the proposed wage indexes for the areas to which these hospitals are reclassifying, as well as the wage indexes for the areas in which they are located, are subject to all of the normal rules for calculating wage indexes for hospitals affected by reclassification decisions by the MGCRB, as described below.

In addition, we would note that the reclassifications enacted by section 152 pertain only to the hospitals located in the specified counties, not to hospitals in other counties within the MSA or hospitals reclassified into the MSA by the MGCRB.

Under section 154 of Public Law 106–113, the Allentown-Bethlehem-Easton, Pennsylvania MSA wage index will be calculated including the wage data for Lehigh Valley Hospital. Section 154 states that, for FY 2001, ''[n]otwithstanding any other provision of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), in calculating and applying the wage indices under that section for discharges occurring during fiscal year 2001, Lehigh Valley Hospital shall be treated as being classified in the Allentown-Bethlehem-Easton Metropolitan Statistical Area.'' This statutory language directs us to include Lehigh Valley Hospital's wage data in the wage index calculation for the Allentown-Bethlehem-Easton MSA for FY 2000 and FY 2001, and to apply the Allentown-Bethlehem-Easton MSA wage index to Lehigh Valley Hospital for discharges occurring during FY 2001.

Section 1886(d)(8)(B) of the Act established that a hospital located in a rural county adjacent to one or more urban areas is treated as being located in the MSA to which the greatest number of workers in the county commute, if the rural county would otherwise be considered part of an MSA (or NECMAs), if the commuting rates used in determining outlying counties were determined on the basis of the aggregate number of resident workers who commute to (and, if applicable under the standards, from) the central county or counties of all contiguous MSAs. Through FY 2000, hospitals are required to use standards published in the **Federal Register** on January 3, 1980, by the Office of Management and Budget. For FY 2000, there were 26 hospitals affected by this provision.

Section 402 of Public Law 106–113 amended section 1886(d)(8)(B) of the Act to allow hospitals to elect to use the standards published in the **Federal Register** on January 3, 1980 (1980 decennial census data) or March 30, 1990 (1990 decennial census data) during FY 2001 and FY 2002. As of FY 2003, hospitals will be required to use the standards published in the **Federal Register** by the Director of the Office of Management and Budget based on the most recent available decennial population data.

We are in the process of working with the Office of Management and Budget to identify the hospitals that would be affected by this amendment. We refer the reader to the September 30, 1988 final rule (53 FR 38499) for a complete discussion of our approach to identify the outlying counties using the standards published in the January 3, 1980 **Federal Register**.

The methodology for determining the wage index values for redesignated hospitals is applied jointly to the hospitals located in those rural counties that were deemed urban under section 1886(d)(8)(B) of the Act and those hospitals that were reclassified as a result of the MGCRB decisions under section 1886(d)(10) of the Act. Section 1886(d)(8)(C) of the Act provides that the application of the wage index to redesignated hospitals is dependent on the hypothetical impact that the wage data from these hospitals would have on the wage index value for the area to which they have been redesignated. Therefore, as provided in section 1886(d)(8)(C) of the Act, the wage index values were determined by considering the following:

- If including the wage data for the redesignated hospitals would reduce the wage index value for the area to which the hospitals are redesignated by 1 percentage point or less, the area wage index value determined exclusive of the wage data for the redesignated hospitals applies to the redesignated hospitals.
- If including the wage data for the redesignated hospitals reduces the wage index value for the area to which the hospitals are redesignated by more than 1 percentage point, the redesignated hospitals are subject to that combined wage index value.
- If including the wage data for the redesignated hospitals increases the wage index value for the area to which the hospitals are redesignated, both the area and the redesignated hospitals receive the combined wage index value.
- The wage index value for a redesignated urban or rural hospital cannot be reduced below the wage index value for the rural areas of the State in which the hospital is located.
- Rural areas whose wage index values would be reduced by excluding the wage data for hospitals that have been redesignated to another area continue to have their wage index values calculated as if no redesignation had occurred.
- Rural areas whose wage index values increase as a result of excluding the wage data for the hospitals that have been redesignated to another area have

their wage index values calculated exclusive of the wage data of the redesignated hospitals.

• The wage index value for an urban area is calculated exclusive of the wage data for hospitals that have been reclassified to another area. However, geographic reclassification may not reduce the wage index value for an urban area below the statewide rural wage index value.

We note that, except for those rural areas in which redesignation would reduce the rural wage index value, the wage index value for each area is computed exclusive of the wage data for hospitals that have been redesignated from the area for purposes of their wage index. As a result, several urban areas listed in Table 4A have no hospitals remaining in the area. This is because all the hospitals originally in these urban areas have been reclassified to another area by the MGCRB. These areas with no remaining hospitals receive the prereclassified wage index value. The prereclassified wage index value will apply as long as the area remains empty.

The proposed wage index values for FY 2001 are shown in Tables 4A, 4B, 4C, and 4F in the Addendum to this proposed rule. Hospitals that are redesignated should use the wage index values shown in Table 4C. Areas in Table 4C may have more than one wage index value because the wage index value for a redesignated urban or rural hospital cannot be reduced below the wage index value for the rural areas of the State in which the hospital is located. When the wage index value of the area to which a hospital is redesignated is lower than the wage index value for the rural areas of the State in which the hospital is located, the redesignated hospital receives the higher wage index value; that is, the wage index value for the rural areas of the State in which it is located, rather than the wage index value otherwise applicable to the redesignated hospitals.

Tables 4D and 4E list the average hourly wage for each labor market area, before the redesignation of hospitals, based on the FY 1997 wage data. In addition, Table 3C in the Addendum to this proposed rule includes the adjusted average hourly wage for each hospital based on the preliminary FY 1997 data as of February 25, 2000 (reflecting the phase-out of GME and CRNA wages as described at section III.C of this preamble). The MGCRB will use the average hourly wage published in the final rule to evaluate a hospital's application for reclassification for FY 2002 (unless that average hourly wage is later revised in accordance with the wage data correction policy described in § 412.63(w)(2)). We note that in adjudicating these wage index reclassifications the MGCRB will use the average hourly wages for each hospital and labor market area that are reflected in the final FY 2001 wage index.

At the time this proposed wage index was constructed, the MGCRB had completed its review of FY 2001 reclassification requests. The proposed FY 2001 wage index values incorporate all 586 hospitals redesignated for purposes of the wage index (hospitals redesignated under section 1886(d)(8)(B) or 1886(d)(10) of the Act, and section 152 Public Law 106–113) for FY 2001. The final number of reclassifications may vary because some MGCRB decisions are still under review by the Administrator and because some hospitals may withdraw their requests for reclassification.

Any changes to the wage index that result from withdrawals of requests for reclassification, wage index corrections, appeals, and the Administrator's review process will be incorporated into the wage index values published in the final rule following this proposed rule. The changes may affect not only the wage index value for specific geographic areas, but also the wage index value redesignated hospitals receive; that is, whether they receive the wage index value for the area to which they are redesignated, or a wage index value that includes the data for both the hospitals already in the area and the redesignated hospitals. Further, the wage index value for the area from which the hospitals are redesignated may be affected.

Under § 412.273, hospitals that have been reclassified by the MGCRB are permitted to withdraw their applications within 45 days of the publication of this proposed rule in the **Federal Register**. The request for withdrawal of an application for reclassification that would be effective in FY 2001 must be received by the MGCRB by June 19, 2000. A hospital that requests to withdraw its application may not later request that the MGCRB decision be reinstated.

G. Requests for Wage Data Corrections

To allow hospitals time to evaluate the wage data used to construct the proposed FY 2001 hospital wage index, we made available to the public a data file containing the FY 1997 hospital wage data. As stated in section II.D of this preamble, the data file used to construct the proposed wage index includes FY 1997 data submitted to HCFA as of mid-February 2000. In a memorandum dated January 28, 2000, we instructed all Medicare intermediaries to inform the prospective payment hospitals that they service of the availability of the wage data file and the process and timeframe for requesting revisions. The wage data file was made available on February 7, 2000 through the Internet at HCFA's home page (http://www.hcfa.gov). We also instructed the intermediaries to advise hospitals of the availability of these data either through their representative hospital organizations or directly from HCFA. Additional details on ordering this data file are discussed in section IX.A of this preamble, ''Requests for Data from the Public.''

In addition, Table 3C in the Addendum to this proposed rule contains each hospital's adjusted average hourly wage used to construct the proposed wage index values. It should be noted that the hospital average hourly wages shown in Table 3C may not reflect any changes made to a hospital's data after February 7, 2000. Changes approved by a hospital's fiscal intermediary and forwarded to HCFA by April 3, 2000 will be reflected on the final public use wage data file scheduled to be made available on May 5, 2000.

We believe hospitals have sufficient time to ensure the accuracy of their FY 1997 wage data. Moreover, the ultimate responsibility for accurately completing the cost report rests with the hospital, which must attest to the accuracy of the data at the time the cost report is filed. However, if, after review of the wage data file released February 4, 2000, a hospital believed that its FY 1997 wage data were incorrectly reported, the hospital was to submit corrections along with complete, detailed supporting documentation to its intermediary by March 6, 2000. Hospitals were notified of this deadline, and of all other possible deadlines and requirements, through written communications from their fiscal intermediaries in late January 2000.

After reviewing requested changes submitted by hospitals, intermediaries transmitted any revised cost reports to HCFA and forwarded a copy of the revised Worksheet S–3, Parts II and III to the hospitals. In addition, fiscal intermediaries were to notify hospitals of the changes or the reasons that changes were not accepted. This procedure ensures that hospitals have every opportunity to verify the data that will be used to construct their wage index values. We believe that fiscal intermediaries are generally in the best position to make evaluations regarding the appropriateness of a particular cost and whether it should be included in the wage index data. However, if a

hospital disagrees with the intermediary's resolution of a requested change, the hospital may contact HCFA in an effort to resolve policy disputes. We note that the April 3, 2000 deadline also applies to these requested changes. We will not consider factual determinations at this time, as these should have been resolved earlier in the process.

Any wage data corrections to be reflected in the final wage index must have been reviewed and verified by the intermediary and transmitted to HCFA on or before April 3, 2000. (The deadline for hospitals to request changes from their fiscal intermediaries was March 6, 2000.) These deadlines are necessary to allow sufficient time to review and process the data so that the final wage index calculation can be completed for development of the final prospective payment rates to be published by August 1, 2000.

We have created the process described above to resolve all substantive wage data correction disputes before we finalize the wage data for the FY 2001 payment rates. Accordingly, hospitals that do not meet the procedural deadlines set forth above will not be afforded a later opportunity to submit wage data corrections or to dispute the intermediary's decision with respect to requested changes.

The final wage data public use file will be released by May 5, 2000. Hospitals should examine both Table 3C of this proposed rule and the May 5 final public use wage data file (which reflects revisions to the data used to calculate the values in Table 3C) to verify the data HCFA is using to calculate the wage index. Hospitals will have until June 5, 2000, to submit requests to correct errors in the final wage data due to data entry or tabulation errors by the intermediary or HCFA. The correction requests that will be considered at that time will be limited to errors in the entry or tabulation of the final wage data that the hospital could not have known about before the release of the final wage data public use file.

As noted above in section III.C of this preamble, the final wage data file released on May 5, 2000 will include hospitals' teaching survey data as well as cost report data. As with the file made available in February 2000, HCFA will make the final wage data file released in May 2000 available to hospital associations and the public on the Internet. However, this file is being made available solely for the limited purpose of identifying any potential errors made by HCFA or the intermediary in the entry of the final wage data that result from the correction process described above (with the March 6 deadline). Hospitals are encouraged to review their hospital wage data promptly after the release of the final file because data presented at this time cannot be used by hospitals to initiate new wage data correction requests.

If, after reviewing the final file, a hospital believes that its wage data are incorrect due to a fiscal intermediary or HCFA error in the entry or tabulation of the final wage data, it should send a letter to both its fiscal intermediary and HCFA. The letters should outline why the hospital believes an error exists and provide all supporting information, including dates. These requests must be *received* by HCFA and the intermediaries no later than June 5, 2000. Requests mailed to HCFA should be sent to: Health Care Financing Administration; Center for Health Plans and Providers; Attention: Wage Index Team, Division of Acute Care; C4–07–07; 7500 Security Boulevard; Baltimore, MD 21244–1850. Each request must also be sent to the hospital's fiscal intermediary. The intermediary will review requests upon receipt and contact HCFA immediately to discuss its findings.

At this point in the process, changes to the hospital wage data will only be made in those very limited situations involving an error by the intermediary or HCFA that the hospital could not have known about before its review of the final wage data file. Specifically, neither the intermediary nor HCFA will accept the following types of requests at this stage of the process:

- Requests for wage data corrections that were submitted too late to be included in the data transmitted to HCFA on or before April 3, 2000.
- Requests for correction of errors that were not, but could have been, identified during the hospital's review of the February 2000 wage data file.
- Requests to revisit factual determinations or policy interpretations made by the intermediary or HCFA during the wage data correction process.

Verified corrections to the wage index received timely (that is, by June 5, 2000) will be incorporated into the final wage index to be published by August 1, 2000 and effective October 1, 2000.

Again, we believe the wage data correction process described above provides hospitals with sufficient opportunity to bring errors in their wage data to the intermediary's attention. Moreover, because hospitals will have access to the final wage data by early May 2000, they will have the opportunity to detect any data entry or tabulation errors made by the intermediary or HCFA before the development and publication of the FY 2001 wage index by August 1, 2000 and the implementation of the FY 2001 wage index on October 1, 2000. If hospitals avail themselves of this opportunity, the wage index implemented on October 1, should be virtually error free. Nevertheless, in the unlikely event that errors should occur after that date, we retain the right to make midyear changes to the wage index under very limited circumstances.

Specifically, in accordance with § 412.63(w)(2), we may make midyear corrections to the wage index only in those limited circumstances in which a hospital can show (1) that the intermediary or HCFA made an error in tabulating its data; and (2) that the hospital could not have known about the error, or did not have an opportunity to correct the error, before the beginning of FY 2001 (that is, by the June 5, 2000 deadline). As indicated earlier, since a hospital will have the opportunity to verify its data, and the intermediary will notify the hospital of any changes, we do not foresee any specific circumstances under which midyear corrections would be necessary. However, should a midyear correction be necessary, the wage index change for the affected area will be effective prospectively from the date the correction is made.

IV. Other Decisions and Proposed Changes to the Prospective Payment System for Inpatient Operating Costs and Graduate Medical Education Costs

A. Expanding the Transfer Definition to Include Postacute Care Discharges (§ 412.4)

In accordance with section 1886(d)(5)(I) of the Act, the prospective payment system distinguishes between ''discharges,'' situations in which a patient leaves an acute care (prospective payment) hospital after receiving complete acute care treatment, and ''transfers,'' situations in which the patient is transferred to another acute care hospital for related care. Our policy, as set forth in the regulations at § 412.4, provides that, in a transfer situation, full payment is made to the final discharging hospital and each transferring hospital is paid a per diem rate for each day of the stay, not to exceed the full DRG payment that would have been made if the patient had been discharged without being transferred.

Effective with discharges on or after October 1, 1998, section 1886(d)(5)(J) of the Act required the Secretary to define

and pay as transfers all cases assigned to one of 10 DRGs (identified below) selected by the Secretary if the individuals are discharged to one of the following settings:

- A hospital or hospital unit that is not a subsection 1886(d) hospital. (Section 1886(d)(1)(B) of the Act identifies the hospitals and hospital units that are excluded from the term ''subsection(d) hospital'' as psychiatric hospitals and units, rehabilitation hospitals and units, children's hospitals, long-term care hospitals, and cancer hospitals.)
- A skilled nursing facility (as defined at section 1819(a) of the Act).
- Home health services provided by a home health agency, if the services relate to the condition or diagnosis for which the individual received inpatient hospital services, and if the home health services are provided within an appropriate period (as determined by the Secretary).

Therefore, any discharge from a prospective payment hospital from one of the selected 10 DRGs that is admitted to a hospital excluded from the prospective payment system on the date of discharge from the acute care hospital, on or after October 1, 1998, would be considered a transfer and paid accordingly under the prospective payment systems (operating and capital) for inpatient hospital services. Similarly, a discharge from an acute care inpatient hospital paid under the prospective payment system to a skilled nursing facility on the same date would be defined as a transfer and paid as such. This would include cases discharged from one of the 10 selected DRGs to a designated swing bed for skilled nursing care. We consider situations in which home health services related to the condition or diagnosis of the inpatient admission are received within 3 days after the discharge as a transfer.

The statute specifies that the Secretary select 10 DRGs based upon a high volume of discharges to postacute care and a disproportionate use of postacute care services. We identified the following DRGs with the highest percentage of postacute care:

- DRG 14 (Specific Cerebrovascular Disorders Except Transient Ischemic Attack (Medical)).
- DRG 113 (Amputation for Circulatory System Disorders Except Upper Limb and Toe (Surgical)).
- DRG 209 (Major Joint Limb Reattachment Procedures of Lower Extremity (Surgical)).
- DRG 210 (Hip and Femur Procedures Except Major Joint Procedures Age >17 with CC (Surgical)).
- DRG 211 (Hip and Femur Procedures Except Major Joint Procedures Age >17 without CC (Surgical)).
- DRG 236 (Fractures of Hip and Pelvis (Medical)).
- DRG 263 (Skin Graft and/or Debridement for Skin Ulcer or Cellulitis with CC (Surgical))
- DRG 264 (Skin Graft and/or Debridement for Skin Ulcer or Cellulitis without CC (Surgical))
- DRG 429 (Organic Disturbances and Mental Retardation (Medical))
- DRG 483 (Tracheostomy Except for Face, Mouth and Neck Diagnoses (Surgical)).

Generally, we pay for transfers based on a per diem payment, determined by dividing the DRG payment by the average length of stay for that DRG. The transferring hospital receives twice the per diem rate the first day and the per diem rate for each following day, up to the full DRG payment. Of the 10 selected DRGs, 7 are paid under this method. However, three DRGs exhibit a disproportionate share of costs very early in the hospital stay. For these three DRGs, hospitals receive one-half of the DRG payment for the first day of the stay and one-half of the payment they would receive under the current transfer payment method, up to the full DRG payment.

Section 1886(d)(5)(J)(iv) of the Act requires the Secretary to include in the FY 2001 proposed rule a description of the effect of the provision to treat as transfers cases that are assigned to one of the 10 selected DRGs and receive postacute care upon their discharge from the hospital. Under contract with HCFA (Contract No. 500–95–0006), Health Economics Research, Inc. (HER) conducted an analysis of the impact on hospitals and hospital payments of the postacute transfer provision. The analysis sought to obtain information on four primary areas: how hospitals responded in terms of their transfer practices; a comparison of payments and costs for these cases; whether hospitals are attempting to circumvent the policy by delaying postacute care or coding the patient's discharge status as something other than a transfer; and what the next possible step is for expanding the transfer payment policy beyond the current 10 selected DRGs or the current postacute destinations.

Section 1886(d)(5)(J)(iv)(I) authorizes the Secretary to include in the proposed rule for FY 2001 a description of other post-discharge services that should be added to this postacute care transfer provision. Since FY 1999 was the first year this policy was effective and because of pending changes to payment policies for other postacute care settings such as hospital outpatient departments, we have limited data to assess whether additional postacute care settings should be included. We will continue to closely monitor this issue as more data become available.

In its analysis, HER relied on HCFA's Standard Analytic Files containing claims submission data through September 1999. However, the second and third quarter submissions for calendar year 1999 were not complete. It was decided that transfer cases would be identified by linking acute hospital discharges with postacute records based on Medicare beneficiary numbers and dates of discharge from the acute hospital with dates of admission or provision of service by the postacute provider. This method was used rather than selecting cases based on the discharge status code on the claim even though this code is being used for payment to these cases because we wanted to also assess how accurately hospitals are coding this status. However, the need to link acute and postacute episodes further limited the analytic data, due to the greater time lag for collecting postacute records. Therefore, much of HER's analysis focused on only the first two quarters of FY 1998. The two preceding fiscal years served as a baseline for purposes of comparison.

HER looked at the 10 DRGs included under the transfer payment policy and identified a slight decrease in the percentage of short-stay postacute transfers. Short-stay transfers were defined as those with a length of stay at least one day below the geometric mean length of stay for the DRG. Comparing the share of short-stay postacute transfers to total discharges shows that during the first two quarters of FY 1998, the resulting percentage was 34 percent. The same comparison during the first two quarters of FY 1999 yielded 33 percent. When HER examined the share of short-stay postacute transfers relative to all short-stay cases, it found that the percentage fell from 59 percent in FY 1998 to 58 percent in FY 1999. According to HER, ''[t]hese figures suggest that the policy change resulted in a moderate decline in the number of postacute care transfers paid for under the lower per diem methodology.''

Evidence also suggests that hospitals are keeping patients in these 10 DRGs longer prior to transfer. The mean length of stay of short-stay postacute transfers remained fairly constant prior to the change and after the change, declining less than one-half percent. On the other hand, the mean length of stay of nontransfer short-stay patients fell by

1.8 percent. By comparison, the mean length of stay of long-stay postacute transfers fell by 3.4 percent, while it fell only 2.1 percent for long-stay nontransfers. The report suggests ''[t]he relative decline in the length of stay of transfers among all long-stay cases suggests that (prospective payment system) hospitals may have responded to the policy change by holding such patients until they exceeded the geometric mean minus one day threshold prior to post-discharge referral.''

We believe these marginal reactions by hospitals to the postacute transfer policy suggest that the increase in the rate of postacute transfers over the past several years has been due to a number of factors, of which Medicare payment policy has been only one. As indicated in the Conference report accompanying Public Law 105–33 (H.R. Conf. Rept. No. 105–217, 105th Cong., 1st Sess., at 740 (1997)), Congress' intent was to ''continue to provide hospitals with strong incentives to treat patients in the most effective and efficient manner, while at the same time, adjust PPS payments in a manner that accounts for reduced hospital lengths of stay because of a discharge to another setting.'' The preliminary results of HER's report suggest that the policy resulting from Public Law 105–33 has not had a disruptive impact on existing clinical practices.

To assess the adequacy of payments under the new policy, HER examined average profits per case prior to and after the policy change. Prior to the policy change, HER found average profits for short-stay transfers in the 10 DRGs to be $2,454 per case. Across the 10 DRGs the average profits ranged from $32,007 per case for DRG 483 to minus $26 per case for DRG 211 (the only one of the 10 DRGs with a negative profit margin prior to implementing the policy). After the policy change, the average profit per case was $1,180 per case. However, 3 of the 10 DRGs had negative average profits after implementation of the policy. The average margin for DRG 483 declined to $16,672 per case.

The study also attempted to ascertain whether there was any concerted effort to circumvent the policy by delaying transfers to avoid having a case defined as a transfer, or by not coding the case correctly on the discharge status indicator on the bill. To assess whether postacute care was being delayed, HER considered, for the periods preceding and subsequent to the policy change, the number and percent of cases admitted to either a hospital or distinct-part unit of a hospital excluded from the prospective payment system or to a skilled nursing facility 2 or 3 days following the discharge, and the number and percent of patients who received services from a home health agency 4 or 5 days after discharge from an acute care hospital. The percentages are based on the share of transferred patients falling into the time windows described above relative to all such transfers.

The analysis identified 699 patients transferred to an excluded hospital or unit 2 or 3 days following discharge from an acute care hospital during the first two quarters of FY 1998, and 660 such cases during the first two quarters of FY 1999. Similarly, there were 2,219 transfers to skilled nursing facilities 2 or 3 days after discharge during the first two quarters of FY 1998, and 1,759 during the first two quarters of FY 1999. The percentage of such transfers was constant for both excluded hospitals and units and for skilled nursing facilities. The analysis found that home health referral on the 4th or 5th day following discharge fell from 17.5 percent to 16.5 percent between the two study periods, from 12,667 cases to 9,745 cases. On the basis of these findings, HER believes ''[t]hese results do not support the contention that (prospective payment system) hospitals (would) circumvent the lower per diem payments by delaying the date of postacute care admission or visit.''

The study also examined the discharge destination codes as reported on the acute care hospital claims against postacute care transfers identified on the basis of a postacute care claim indicating the patient qualifies as a transfer. This analysis found that in 1998, only 74 percent of transfer cases had discharge destination codes on the acute care hospital claim that were consistent with whether there was a postacute care claim for the case matching the date of discharge. In FY 1999, the year the postacute care transfer policy went into effect, this rate rose to 79 percent. This indicates that hospitals are improving the accuracy of coding transfer cases.

Transfers to hospitals or units excluded from the prospective payment system must have a discharge destination code (Patient Status) of 05. Transfers to a skilled nursing facility must have a discharge destination code of 03. Transfers to a home health agency must have a discharge destination code of 06. If the hospital's continuing care plan for the patient is not related to the purpose of the inpatient hospital admission, a condition code 42 must be entered on the claim. If the continuing care plan is related to the purpose of the inpatient hospital admission, but care did not start within 3 days after the date of discharge, a condition code 43 must be entered on the claim. The presence of either of these condition codes in conjunction with discharge destination code 06 will result in full payment rather than the transfer payment amount. We intend to closely monitor the accuracy of hospitals' discharge destination coding in this regard and take whatever steps are necessary to ensure that accurate payment is made under this policy.

Section 1886(d)(5)(J)(iv)(II) of the Act authorized but did not require the Secretary to include as part of this proposed rule additional DRGs to include under the postacute care transfer provision. As part of ''The President's Plan to Modernize and Strengthen Medicare for the 21st Century'' (July 2, 1999), the Administration committed to not expanding the number of DRGs included in the policy until FY 2003. Therefore, we are not proposing any change to the postacute care settings or the 10 DRGs.

HER did undertake an analysis of how additional DRGs might be considered for inclusion under the policy. The analysis supports the initial 10 DRGs selected as being consistent with the nature of the Congressional mandate. According to HER, ''[t]he top 10 DRGs chosen initially by HCFA exhibit very large PAC [postacute care] levels and PAC discharge rates (except for DRG 264, Skin Graft and/or Debridement for Skin Ulcer or Cellulitis without CC, which was paired with DRG 263). All 10 appear to be excellent choices based on the other criteria as well. Most have fairly high short-stay PAC rates (except possibly for Strokes, DRG 14, and Mental Retardation, DRG 429).''

Extending the policy beyond these initial DRGs, however, may well require more extensive analysis and grouping of like-DRGs. One concern raised in the analysis relates to single DRGs including multiple procedures with varying lengths of stay. Because the transfer payment methodology only considers the DRG overall geometric mean length of stay for a DRG, certain procedures with short lengths of stay relative to other procedures in the same DRG may be more likely to be treated as transfers. The analysis also considers pairs of DRGs, such as DRGs 263 and 264, as well as larger bundles of DRGs (grouped by common elements such as trauma, infections, and major organ procedures). According to HER, ''[i]n extending the PAC transfer policy, it is necessary to go beyond the flawed concept of a single DRG to discover multiple DRGs with a common link that

exhibit similar PAC statistics. Aggregation of this sort provides a logical bridge in expanding the PAC transfer policy that is easily justified to Congress and that avoids unintended inequities in the way DRGs—and potentially hospitals—are treated under this policy. Hospitals can be inadvertently penalized or not under the current implementation criteria due to systematic differences in the DRG mix.''

Finally, the HER report concludes with a discussion of the issues related to potentially expanding the postacute care transfer policy to all DRGs. On the positive side, HER points to the benefits of expanding the policy to include all DRGs:

- A simple, uniform formula-driven policy;
- Same policy rationale exists for all DRGs—the statutory provision requiring the Secretary to select only 10 DRGs was a political compromise;
- DRGs with little utilization of short-stay postacute care would not be harmed by the policy;
- Less confusion in discharge destination coding; and
- Hospitals that happen to be disproportionately treating the current 10 DRGs may be harmed more than hospitals with an aggressive short-stay postacute care transfer policy for other DRGs.

According to HER, the negative implications of expanding the policy to all DRGs include:

- The postacute care transfer policy is irrelevant for many DRGs;
- Added burden for the fiscal intermediaries to verify discharge destination codes;
- Diluted program savings beyond the initial 10 DRGs;
- Difficult to identify ongoing postacute care that resumes after discharge; and
- Heterogeneous procedures within single DRGs having varying lengths of stay.

At the time we developed this proposed rule, HER's report was not yet in final format. We anticipate that, by the time the final FY 2001 rule is published, this report will be available in final format. We will announce in that rule how to attain copies of the complete report.

B. Sole Community Hospitals (SCHs) (412.63, 412.73, and 413.75, Proposed New § 412.77, and § 412.92)

Under the hospital inpatient prospective payment system, special payment protections are provided to sole community hospitals (SCHs). Section 1886(d)(5)(D)(iii) of the Act defines an SCH as, among other things, a hospital that, by reason of factors such as isolated location, weather conditions, travel conditions, or absence of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available to Medicare beneficiaries. The regulations that set forth the criteria a hospital must meet to be classified as an SCH are located at § 412.92(a).

Currently SCHs are paid based on whichever of the following rates yields the greatest aggregate payment to the hospital for the cost reporting period: the Federal national rate applicable to the hospital; or the hospital's ''target amount'';—that is, either the updated hospital-specific rate based on FY 1982 costs per discharge, or the updated hospital-specific rate based on FY 1987 costs per discharge.

Section 405 of Public Law 106–113, which amended section 1886(b)(3) of the Act, provides that an SCH that was paid for its cost reporting period beginning during 1999 on the basis of either its FY 1982 or FY 1987 target amount (the hospital-specific rate as opposed to the Federal rate) may elect to receive payment under a methodology using a third hospital-specific rate based on the hospital's FY 1996 costs per discharge. This amendment to the statute means that, for discharges occurring in FY 2001, eligible SCHs can elect to use the allowable FY 1996 operating costs for inpatient hospital services as the basis for their target amount, rather than either their FY 1982 or FY 1987 costs.

We are aware that language in the Conference Report accompanying Public Law 106–113 indicates that the House bill (H.R. 3075) would have permitted SCHs that were being paid the Federal rate to rebase, not SCHs that were paid on the basis of either their FY 1982 or FY 1987 target amount (H.R. Conf. Rep. No. 106–479, 106th Cong., 1st Sess. at 890 (1999)). The language of the section 405 amendment to section 1886(b)(3) (which added new subparagraph (I)(ii)) clearly limits the option to substitute the FY 1996 base year to SCHs that were paid for their cost reporting periods beginning during 1999 on the basis of the target amount applicable to the hospital under section 1886(b)(3)(C).

When calculating an eligible SCH's FY 1996 hospital-specific rate, we propose to utilize the same basic methodology used to calculate FY 1982 and FY 1987 bases. That methodology is set forth in §§ 412.71 through 412.75 of the regulations and discussed in detail in several prospective payment system documents published in the **Federal Register** on September 1, 1983 (48 FR 3977); January 3, 1984 (49 FR 256); June 1, 1984 (49 FR 23010); and April 20, 1990 (55 FR 15150).

Since we anticipate that eligible hospitals will elect the option to rebase using their FY 1996 cost reporting periods, we are instructing our fiscal intermediaries to identify those SCHs that were paid for their cost reporting periods beginning during 1999 on the basis of their target amounts. For these hospitals, fiscal intermediaries will calculate the FY 1996 hospital-specific rate as described below in this section IV.B. If this rate exceeds a hospital's current target amount based on the greater of the FY 1982 or FY 1987 hospital-specific rate, the hospital will receive payment based on the FY 1996 hospital-specific rate (based on the blended amounts described at section 1886(b)(3)(I)(i) of the Act) unless the hospital notifies its fiscal intermediary in writing prior to the end of the cost reporting period that it does not wish to be paid on the basis of the FY 1996 hospital-specific rate. Thus, if a hospital does not notify its fiscal intermediary before the end of the cost reporting period that it declines the rebasing option, we will deem the lack of such notification as an election to have section 1886(b)(3)(I) of the Act apply to the hospital.

An SCH's decision to decline this option for a cost reporting period will remain in effect for subsequent periods until such time as the hospital notifies its fiscal intermediary otherwise.

The FY 1996 hospital-specific rate will be based on FY 1996 cost reporting periods beginning on or after October 1, 1995 and before October 1, 1996, that are 12 months or longer. If the hospital's last cost reporting period ending on or before September 30, 1996 is less than 12 months, the hospital's most recent 12-month or longer cost reporting period ending before the short period report would be utilized in the computations. If a hospital has no cost reporting period beginning in FY 1996, it would not have a hospital-specific rate based on FY 1996.

For each hospital eligible for FY 1996 rebasing, the fiscal intermediary would calculate a hospital-specific rate based on the hospital's FY 1996 cost report as follows:

- Determine the hospital's total allowable Medicare inpatient operating cost, as stated on the FY 1996 cost report.
- Divide the total Medicare operating cost by the number of Medicare discharges in the cost reporting period to determine the FY 1996 base period cost per case. For this purpose, transfers are considered to be discharges.

• In order to take into consideration the hospital's individual case-mix, divide the base year cost per case by the hospital's case-mix index applicable to the FY 1996 cost reporting period. This step is necessary to standardize the hospital's base period cost for case-mix and is consistent with our treatment of both FY 1982 and FY 1987 base-period costs per case. A hospital's case-mix is computed based on its Medicare patient discharges subject to DRG-based payment.

The fiscal intermediary will notify eligible hospitals of their FY 1996 hospital-specific rate prior to October 1, 2000. Consistent with our policies relating to FY 1982 and FY 1987 hospital-specific rates, we propose to permit hospitals to appeal a fiscal intermediary's determination of the FY 1996 hospital-specific rate under the procedures set forth in 42 CFR part 405, subpart R, which concern provider payment determinations and appeals. In the event of a modification of base period costs for FY 1996 rebasing due to a final nonappealable court judgment or certain administrative actions (as defined in § 412.72(a)(3)(i)), the adjustment would be retroactive to the time of the intermediary's initial calculation of the base period costs, consistent with the policy for rates based on FY 1982 and FY 1987 costs.

Section 405 prescribes the following formula to determine the payment for SCHs that elect rebasing:

For discharges during FY 2001:

• 75 percent of the updated FY 1982 or FY 1987 former target (identified in the statute as the ''subparagraph (C) target amount''), plus

• 25 percent of the updated FY 1996 amount (identified in the statute as the ''''rebased target amount'').

For discharges during FY 2002:

• 50 percent of the updated FY 1982 or FY 1987 former target, plus

• 50 percent of the updated FY 1996 amount.

For discharges during FY 2003:

• 25 percent of the updated FY 1982 or FY 1987 former target, plus

• 75 percent of the updated FY 1996 amount.

For discharges during FY 2004 or any subsequent fiscal year, the hospital-specific rate would be determined based on 100 percent of the updated FY 1996 amount.

We are proposing to add a new § 412.77 and amend § 412.92(d) to incorporate the provisions of section 1886(b)(3)(I) of the Act, as added by section 405 of Public Law 106–113.

Section 406 of Public Law 106–113 amended section 1886(b)(3)(B)(i)(XVI) of the Act to provide, for fiscal year 2001, for full market basket updates to both the Federal and hospital-specific payment rates applicable to sole community hospitals. We are proposing to amend § § 412.63, 412.73, and 412.75 to incorporate the amendment made by section 406 of Public Law 106–113.

C. Rural Referral Centers (§ 412.96)

Under the authority of section 1886(d)(5)(C)(i) of the Act, the regulations at § 412.96 set forth the criteria a hospital must meet in order to receive special treatment under the prospective payment system as a rural referral center. For discharges occurring before October 1, 1994, rural referral centers received the benefit of payment based on the other urban amount rather than the rural standardized amount. Although the other urban and rural standardized amounts were the same for discharges beginning with that date, rural referral centers would continue to receive special treatment under both the disproportionate share hospital (DSH) payment adjustment and the criteria for geographic reclassification.

As discussed in 62 FR 45999 and 63 FR 26317, under section 4202 of Public Law 105–33, a hospital that was classified as a rural referral center for FY 1991 is to be classified as a rural referral center for FY 1998 and later years so long as that hospital continued to be located in a rural area and did not voluntarily terminate its rural referral center status. Otherwise, a hospital seeking rural referral center status must satisfy applicable criteria. One of the criteria under which a hospital may qualify as a rural referral center is to have 275 or more beds available for use. A rural hospital that does not meet the bed size requirement can qualify as a rural referral center if the hospital meets two mandatory prerequisites (specifying a minimum case-mix index and a minimum number of discharges) and at least one of three optional criteria (relating to specialty composition of medical staff, source of inpatients, or referral volume). With respect to the two mandatory prerequisites, a hospital may be classified as a rural referral center if its—

• Case-mix index is at least equal to the lower of the median case-mix index for urban hospitals in its census region, excluding hospitals with approved teaching programs, or the median case-mix index for all urban hospitals nationally; and

• Number of discharges is at least 5,000 per year, or if fewer, the median number of discharges for urban hospitals in the census region in which the hospital is located. (The number of discharges criterion for an osteopathic hospital is at least 3,000 discharges per year.)

1. Case-Mix Index

Section 412.96(c)(1) provides that HCFA will establish updated national and regional case-mix index values in each year's annual notice of prospective payment rates for purposes of determining rural referral center status. The methodology we use to determine the proposed national and regional case-mix index values is set forth in regulations at § 412.96(c)(1)(ii). The proposed national case-mix index value includes all urban hospitals nationwide, and the proposed regional values are the median values of urban hospitals within each census region, excluding those with approved teaching programs (that is, those hospitals receiving indirect medical education payments as provided in § 412.105). These values are based on discharges occurring during FY 1999 (October 1, 1998 through September 30, 1999) and include bills posted to HCFA's records through December 1999.

We are proposing that, in addition to meeting other criteria, hospitals with fewer than 275 beds, if they are to qualify for initial rural referral center status for cost reporting periods beginning on or after October 1, 2000, must have a case-mix index value for FY 1999 that is at least—

• 1.3401; or

• The median case-mix index value for urban hospitals (excluding hospitals with approved teaching programs as identified in § 412.105) calculated by HCFA for the census region in which the hospital is located.

The median case-mix values by region are set forth in the following table:

Region	Case-mix index value
1. New England (CT, ME, MA, NH, RI, VT)	1.2291
2. Middle Atlantic (PA, NJ, NY)	1.2387
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	1.3116
4. East North Central (IL, IN, MI, OH, WI)	1.2602
5. East South Central (AL, KY, MS, TN)	1.2692
6. West North Central (IA, KS, MN, MO, NE, ND, SD)	1.1881
7. West South Central (AR, LA, OK, TX)	1.2800
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	1.3302
9. Pacific (AK, CA, HI, OR, WA)	1.3076

The preceding numbers will be revised in the final rule to the extent required to reflect the updated FY 1999 MedPAR file, which will contain data

from additional bills received through March 31, 2000.

For the benefit of hospitals seeking to qualify as rural referral centers or those wishing to know how their case-mix index value compares to the criteria, we are publishing each hospital's FY 1999 case-mix index value in Table 3C in section VI. of the Addendum to this proposed rule. In keeping with our policy on discharges, these case-mix index values are computed based on all Medicare patient discharges subject to DRG-based payment.

2. Discharges

Section 412.96(c)(2)(i) provides that HCFA will set forth the national and regional numbers of discharges in each year's annual notice of prospective payment rates for purposes of determining rural referral center status. As specified in section 1886(d)(5)(C)(ii) of the Act, the national standard is set at 5,000 discharges. We are proposing to update the regional standards based on discharges for urban hospitals' cost reporting periods that began during FY 1998 (that is, October 1, 1997 through September 30, 1998). That is the latest year for which we have complete discharge data available.

Therefore, we are proposing that, in addition to meeting other criteria, a hospital, if it is to qualify for initial rural referral center status for cost reporting periods beginning on or after October 1, 2000, must have as the number of discharges for its cost reporting period that began during FY 1999 a figure that is at least—

- 5,000; or
- The median number of discharges for urban hospitals in the census region in which the hospital is located, as indicated in the following table:

Region	Number of discharges
1. New England (CT, ME, MA, NH, RI, VT)	6,733
2. Middle Atlantic (PA, NJ, NY)	8,681
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	7,845
4. East North Central (IL, IN, MI, OH, WI)	7,526
5. East South Central (AL, KY, MS, TN)	6,852
6. West North Central (IA, KS, MN, MO, NE, ND, SD)	5,346
7. West South Central (AR, LA, OK, TX)	5,380
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	8,026
9. Pacific (AK, CA, HI, OR, WA)	6,160

We note that the number of discharges for hospitals in each census region is greater than the national standard of 5,000 discharges. Therefore, 5,000 discharges is the minimum criterion for all hospitals. These numbers will be revised in the final rule based on the latest FY 1998 cost report data.

We reiterate that an osteopathic hospital, if it is to qualify for rural referral center status for cost reporting periods beginning on or after October 1, 2000, must have at least 3,000 discharges for its cost reporting period that began during FY 1999.

D. Indirect Medical Education (IME) Adjustment (§ 412.105)

Section 1886(d)(5)(B) of the Act provides that prospective payment hospitals that have residents in an approved graduate medical education (GME) program receive an additional payment to reflect the higher indirect operating costs associated with GME. The regulations regarding the calculation of this additional payment, known as the indirect medical education (IME) adjustment, are located at § 412.105.

Section 111 of Public Law 106–113 modified the transition for the IME adjustment that was established by Public Law 105–33. We will publish these changes in a separate interim final rule with comment period. However, for discharges occurring during FY 2001, the adjustment formula equation used to calculate the IME adjustment factor is $1.54 \times [(1 + r)^{.405} - 1]$. (The variable r represents the hospital's resident-to-bed ratio.)

In the July 30, 1999 final rule (64 FR 41517), we set forth certain policies that affected payment for both direct and indirect GME. These policies related to adjustments to full-time equivalent (FTE) resident caps for new medical residency programs affecting both direct and indirect GME programs; the adjustment to GME caps for certain hospitals under construction prior to August 5, 1997 (the enactment date of Public Law 105–33) to account for residents in new medical residency training programs; and the temporary adjustment to FTE caps to reflect residents affected by hospital closures. When we amended the regulations under § 413.86 for direct GME, we inadvertently did not make the corresponding changes in § 412.105 for IME. We are proposing to make the following conforming changes:

- To amend § 412.105(f)(1)(vii) to provide for an adjustment to the FTE caps for new medical residency programs as specified under § 413.86(g)(6).
- To add a new § 412.105(f)(1)(viii) related to the adjustment to the FTE caps for newly constructed hospitals that sponsor new residency programs in effect on or after January 1, 1995, and on or before August 5, 1997, that either received initial accreditation by the appropriate accrediting body or temporarily trained residents at another hospital(s) until the facility was completed, to conform to the provisions of § 413.86(g)(7).
- To add a new § 412.105(f)(1)(ix) to specify that a hospital may receive a temporary adjustment to its FTE cap to take into account residents added because of another hospital's closure if the hospital meets the criteria listed under § 413.86(g)(8).

In addition, we are proposing to add a cross-reference to ''§ 413.86(d)(3)(i) through (v)'' in § 412.105(g), and to correct the applicable period in both §§ 412.105(g) and 413.86(d)(3) by revising the phrase ''For portions of cost reporting periods beginning on or after January 1, 1998'' to read ''For portions of cost reporting periods occurring on or after January 1, 1998''.

E. Payments to Disproportionate Share Hospitals (§ 412.106)

Effective for discharges beginning on or after May 1, 1986, hospitals that treat a disproportionately large number of low-income patients (as defined in section 1886(d)(5)(F) of the Act) receive additional payments through the DSH adjustment. Section 4403(a) of Public Law 105–33 amended section 1886(d)(5)(F) of the Act to reduce the payment a hospital would otherwise receive under the current disproportionate share formula by 1 percent for FY 1998, 2 percent for FY 1999, 3 percent for FY 2000, 4 percent for FY 2001, 5 percent for 2002, and 0 percent for FY 2003 and each subsequent fiscal year. Subsequently, section 112 of Public Law 106–113 modified the amount of the reductions under Public Law 105–33 by changing the reduction to 3 percent for FY 2001 and 4 percent for FY 2002. The reduction continues to be 0 percent for FY 2003 and each subsequent fiscal year. We are proposing to revise § 412.106(e) to reflect the changes in the statute made by Public Law 106–113.

Section 112 of Public Law 106–113 also directs the Secretary to require prospective payment system hospitals to submit data on the costs incurred by the hospitals for providing inpatient and outpatient hospital services for which the hospitals are not compensated, including non-Medicare bad debt, charity care, and charges for medical and indigent care to the Secretary as part of hospitals' cost reports. These data are required for cost reporting periods beginning on or after October 1,

2001. We will be revising our instructions to hospitals for cost reports for FY 2002 to capture these data.

F. Medicare Geographic Classification Review Board (§§ 412.256 and 412.276)

With the creation of the Medicare Geographic Classification Review Board (MGCRB), beginning in FY 1991, under section 1886(d)(10) of the Act, hospitals could request reclassification from one geographic location to another for the purpose of using the other area's standardized amount for inpatient operating costs or the wage index value, or both (September 6, 1990 interim final rule with comment period (55 FR 36754), June 4, 1991 final rule with comment period (56 FR 25458), and June 4, 1992 proposed rule (57 FR 23631)). Implementing regulations in Subpart L of Part 412 (412.230 *et seq.*) set forth criteria and conditions for redesignations from rural to urban, rural to rural, or from an urban area to another urban area with special rules for SCHs and rural referral centers.

1. Provisions of Public Law 106–113

Section 401 of Public Law 106–113 amended section 1886(d)(8) of the Act by adding subparagraph (E), which creates a mechanism, separate and apart from the MGCRB, permitting an urban hospital to apply to the Secretary to be treated as being located in the rural area of the State in which the hospital is located. The statute directs the Secretary to treat a qualifying hospital as being located in a rural area for purposes of provisions under section 1886(d) of the Act. In addition, section 401 of Public Law 106–113 went on to incorporate the effects of such reclassifications from urban to rural for purposes of Medicare payments to outpatient departments and to hospitals that would qualify to become critical access hospitals.

Regulations implementing section 1886(d)(8)(E) of the Act are currently under development and will be published in a separate document. However, we note that the statutory language of section 1886(d)(8)(E) of the Act does not address the issue of interactions between changes in classification under section 1886(d)(8)(E) of the Act and the MGCRB reclassification process under section 1886(d)(10) of the Act. The Secretary has extremely broad authority under section 1886(d)(10) of the Act to establish criteria for reclassification under the MGCRB process. Section 401 of Public Law 106–113 does not amend section 1886(d)(10) of the Act to limit the agency's discretion under the provision in any way, nor does section 1886(d)(8)(E) of the Act (as added by section 401) refer to section 1886(d)(10) of the Act. However, we note that in the Conference Report accompanying Public Law 106–113, the language discussing the House bill (H.R. 3075, as passed) indicated that: ''[H]ospitals qualifying under this section shall be eligible to qualify for all categories and designations available to rural hospitals, including sole community, Medicare dependent, critical access, and referral centers. Additionally, qualifying hospitals shall be eligible to apply to the Medicare Geographic Reclassification Review Board for geographic reclassification to another area''.

We are concerned that section 1886(d)(8)(E) might create an opportunity for some urban hospitals to take advantage of the MGCRB process by first seeking to be reclassified as rural under section 1886(d)(8)(E) (and receiving the benefits afforded to rural hospitals) and in turn seek reclassification through the MGCRB back to the urban area for purposes of their standardized amount and wage index (and thus also receive the higher payments that might result from being treated as being located in an urban area). That is, we are concerned that some hospitals might inappropriately seek to be treated as being located in a rural area for some purposes and as being located in an urban area for other purposes. In light of the Conference Report language noted above discussing the House bill on the one hand, and the potential for inappropriately inconsistent treatment of the same hospital on the other hand, we are seeking public comment on this issue, and indicating our position that we may impose a limitation on such MGCRB reclassifications in the final rule for FY 2001, if such action appears warranted. We also are seeking specific comments on how such a limitation, if any, should be imposed.

For example, it could be argued that if a hospital has applied to be treated as being located in a rural area under section 1886(d)(8)(E) of the Act, then the hospital should be treated as rural for all purposes under section 1886(d), and it would be inappropriate to permit the hospital to be reclassified back to an urban area for any purpose. Under this approach, hospitals seeking reclassification under section 1886(d)(8)(E) of the Act would be treated as rural for all purposes under section 1886(d) and would be able to benefit from special provisions that apply to rural hospitals. They would not, however, be eligible for reclassification back to an urban area for either the wage index or the standardized amount. This would apply to hospitals seeking to reclassify either to their original MSA or to another MSA.

Under an alternative approach, hospitals reclassifying from urban to rural under section 1886(d)(8)(E) of the Act would be eligible to apply and be reclassified by the MGCRB like any other rural hospital (as long as applicable regulations governing MGCRB are met). This might allow hospitals to effectively pick from an array of urban and rural payment policies to maximize their Medicare payments. It could be argued that this would be the policy most consistent with the Conference Report language but we believe that it might lead to inappropriate, inconsistent classifications.

We are very concerned that the effect of unlimited MGCRB reclassifications back to the area from which a hospital was reclassified under section 1886(d)(8)(E) of the Act could have implications beyond those envisioned by Congress when it passed Public Law 106–113. However, in light of the Conference Report language, we are seeking comments on this issue. In the final rule, we might adopt one of the approaches discussed above or some other approach for addressing this issue.

Under section 152 of Public Law 106–113, certain counties are deemed to be located in specified areas for purposes of payment under the hospital inpatient prospective payment system, effective for discharges occurring on or after October 1, 2000. For payment purposes, these hospitals are to be treated as though they were reclassified for purposes of both the standardized amount and the wage index. These provisions are addressed in section III.B. of this preamble, as they relate to calculation of the FY 2001 wage indexes for hospitals in the affected counties as if they were reclassified to the specified area; and in the Addendum to this preamble as they relate to the standardized amounts.

2. Revised Thresholds Applicable to Rural Hospitals for Wage Index Reclassifications

Existing §§ 412.230(e)(1)(iii) and (e)(1)(iv) provide that hospitals may obtain reclassification to another area for purposes of calculating and applying the wage index if the hospital's average hourly wages are at least 108 percent of the average hourly wages in the area where it is physically located, and at least 84 percent of the average hourly wages in a proximate area to which the hospital seeks reclassification. These thresholds apply equally to urban and rural hospitals seeking reclassification.

Historically, the financial performance of rural hospitals under the prospective payment system has lagged behind that of urban hospitals. Despite an overall increase in recent years of Medicare inpatient operating profit margins, some rural hospitals continue to struggle financially (as measured by Medicare inpatient operating prospective payment system payments minus costs, divided by payments). For example, during FY 1997, while the national average hospital margin was 15.1 percent, it was 8.9 percent for rural hospitals. In addition, approximately one-third of rural hospitals continue to experience negative Medicare inpatient margins despite this relatively high average margin.

In response to the lower margins of rural hospitals and the potential for a negative impact on beneficiaries' access to care if these hospitals were to close, we considered potential administrative changes that could help improve payments for rural hospitals. One approach in that regard would be to make it easier for rural hospitals to reclassify for purposes of receiving a higher wage index. The current thresholds for applying for wage index reclassification are based on our previous analysis showing the average hospital wage as a percentage of its area wage was 96 percent, and one standard deviation from that average was equal to 12 percentage points (see the June 4, 1992 proposed rule (57 FR 23635) and the September 1, 1992 final rule (57 FR 39770)). Because rural hospitals' financial performance has consistently remained below that of urban hospitals, we now believe that rural hospitals merit special dispensation with respect to qualifying for reclassification for purposes of the wage index. Therefore, we are proposing to change those average wage threshold percentages so more rural hospitals can be reclassified. Specifically, we are proposing to lower the upper threshold for rural hospitals to 106 percent and the lower threshold to 82 percent. The thresholds for urban hospitals seeking reclassification for purposes of the wage index would be unchanged. We would note that rural hospitals comprised nearly 90 percent of FY 2000 wage index reclassifications. Under this proposal, beginning October 1, 2000, rural hospitals would be able to reclassify for the wage index if, among other things, their average hourly wages are at least 106 percent of the area in which they are physically located, and at least 82 percent of the average hourly wages in the proximate area to which it seeks reclassification.

Although it is difficult to estimate precisely how many additional hospitals might qualify by lowering the thresholds because we do not have data indicating which hospitals meet all of the other reclassification criteria (*e.g.,* proximity), our analysis indicates that, if we were to raise the 108 percent threshold to 109 percent, approximately 20 rural hospitals would no longer qualify. If the upper threshold were to be raised to 110 percent, another 16 hospitals would not qualify. On the other hand, increasing the lower threshold from 84 percent to 85 percent would result in only 2 rural hospitals becoming ineligible to reclassify. Only 1 additional hospital would be affected by raising the threshold to 86 percent. Based on this analysis, we anticipate approximately 50 rural hospitals are likely to benefit from this proposed change.

We believe this proposal achieves an appropriate balance between allowing certain hospitals that are currently just below the thresholds to become eligible for reclassification, while not liberalizing the criteria so much that an excessive number of hospitals begin to reclassify. Because these reclassifications are budget neutral, nonreclassified hospitals' payments are negatively impacted by reclassification.

We believe there are many factors associated with lower margins among rural hospitals. We would note that section 410 of Public Law 106–113 requires the Comptroller General of the United States to ''conduct a study of the current laws and regulations for geographic reclassification of hospitals to determine whether such reclassification is appropriate for purposes of applying wage indices.'' In addition, section 411 of Public Law 106–113 requires MedPAC to conduct a study on the adequacy and appropriateness of the special payment categories and methodologies established for rural hospitals. We anticipate that the results of these studies will help identify other areas to help improve payments for rural hospitals, either through reclassifications or other means.

G. Payment for Direct Costs of Graduate Medical Education (§ 413.86)

1. Background

Under section 1886(h) of the Act, Medicare pays hospitals for the direct costs of graduate medical education (GME). The payments are based on the number of residents trained by the hospital. Section 1886(h) of the Act, as amended by section 4623 of Public Law 105–33, caps the number of residents that hospitals may count for direct GME.

Section 9202 of the Consolidated Omnibus Reconciliation Act (COBRA) of 1985 (Public Law 99–272) established a methodology for determining payments to hospitals for the costs of approved GME programs at section 1886(h)(2) of the Act. Section 1886(h)(2) of the Act, as implemented in regulations at § 413.86(e), sets forth a payment methodology for the determination of a hospital-specific, base-period per resident amount (PRA) that is calculated by dividing a hospital's allowable costs of GME for a base period by its number of residents in the base period. The base period is, for most hospitals, the hospital's cost reporting period beginning in FY 1984 (that is, the period of October 1, 1983 through September 30, 1984). The PRA is multiplied by the number of full-time equivalent (FTE) residents working in all areas of the hospital complex (or non-hospital sites, when applicable), and the hospital's Medicare share of total inpatient days to determine Medicare's direct GME payments. In addition, as specified in section 1886(h)(2)(D)(ii) of the Act, for cost reporting periods beginning on or after October 1, 1993, through September 30, 1995, each hospital's PRA for the previous cost reporting period is not adjusted for any FTE residents who are not either a primary care or an obstetrics and gynecology resident. As a result, hospitals with both primary care/obstetrics and gynecology residents and non-primary care residents have two separate PRAs for FY 1994 and, thereafter, one for primary care and one for non-primary care. (Thus, for purposes of this proposed rule, when we refer to a hospital's PRA, this amount is inclusive of any CPI–U adjustments the hospital may have received since the hospital's base-year, including any CPI-U adjustments the hospital may have received because the hospital trains primary care/non-primary care residents, as specified under existing § 413.86(e)(3)(ii)).

2. Use of National Average Per Resident Amount Methodology in Computing Direct GME Payments

Section 311 of Public Law 106–113 amended section 1886(h)(2) of the Act to establish a methodology for the use of a national average PRA in computing direct GME payments for cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005. Generally, section 311 establishes a ''floor'' and a ''ceiling'' based on a locality-adjusted, updated, weighted average PRA. Each hospital's PRA is compared to the floor and ceiling to determine whether its PRA should be

revised. Accordingly, we are proposing to implement section 311 by setting forth the prescribed methodology for calculation of the weighted average PRA. We then discuss the proposed steps for determining whether a hospital's PRA will be adjusted based upon the proposed calculated weighted average PRA, in accordance with the methodology specified under section 311 of Public Law 106–113.

We propose to calculate the weighted average PRA based upon data from hospitals' cost reporting periods ending during FY 1997 (October 1, 1996 through September 30, 1997), as directed by section 311 of Public Law 106–113. We accessed these FY 1997 cost reporting data from the Hospital Cost Report Information System (HCRIS) and also obtained the necessary data for those hospitals that are not included in HCRIS (because they file manual cost reports), from those hospitals' fiscal intermediaries. If a hospital had more than one cost reporting period ending in FY 1997, we propose to include all of its cost reports ending in FY 1997 in our calculations. However, if a hospital did not have a cost reporting period ending in FY 1997, such as a hospital with a long cost reporting period beginning in FY 1996 and ending in FY 1998, the hospital is excluded from our calculations. One hospital is excluded from our calculation even though it did have a cost reporting period ending during FY 1997 because, at that time, it was a new teaching hospital with no established PRA (the first year of training for a new teaching hospital is paid for by Medicare on a cost basis; a PRA is applied in calculating a hospital's payment beginning with the hospital's second year of residency training). The total number of hospitals that we include in our calculation is 1,235. Thirty-five of these hospitals are hospitals with more than one cost report.

In accordance with section 311 of Public Law 106–113, we propose to calculate the weighted average PRA in the following manner:

Step 1: We determine each hospital's single PRA by adding each hospital's primary care and non-primary care PRAs, weighted by its respective FTEs, and dividing by the sum of the FTEs for primary care and non-primary care residents.

Step 2: We standardize each hospital's single PRA by dividing it by the 1999 geographic adjustment factor (GAF) (which is an average of the three geographic index values (weighted by the national average weight for the work component, practice expense component, and malpractice component)) in accordance with section 1848(e) of the Act and 42 CFR 414.26 (which is used to adjust physician payments for the different wage areas), for the physician fee schedule area in which the hospital is located.

Step 3: We add all the standardized hospital PRAs (as calculated in Step 2), each weighted by hospitals' respective FTEs, and then divide by the total number of FTEs.

Based upon this three-step calculation, we have determined the proposed weighted average PRA (for cost reporting periods ending during FY 1997) to be $68,487.

For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005 (FY 2001 through FY 2005), the national average PRA is applied using the following three steps:

Step 1: Update the weighted average PRA for inflation. Under section 1886(h)(2) of the Act, as amended by section 311 of Public Law 106–113, the weighted average PRA is updated by the estimated percentage increase in the consumer price index for all urban consumers (CPI–U) during the period beginning with the month that represents the midpoint of the cost reporting *periods* ending during FY 1997 and ending with the midpoint of the hospital's cost reporting *period* that begins in FY 2001. Therefore, the weighted average standardized PRA ($68,487) would be updated by the increase in CPI–U for the period beginning with the midpoint of *all cost* reporting periods for hospitals with cost reporting periods ending during FY 1997 (October 1, 1996), and ending with the midpoint of the *individual* hospital's cost reporting period that begins during FY 2001.

For example, Hospital A has a calendar year cost reporting period. Thus, for Hospital A, the weighted average PRA is updated from October 1, 1996 to July 1, 2001, because July 1 is the midpoint of its cost reporting period beginning on or after October 1, 2000. Or, for example, if Hospital B has a cost reporting period starting October 1, the weighted average PRA is updated from October 1, 1996 to April 1, 2001, the midpoint of the cost reporting period for Hospital B. Therefore, the starting point for updating the weighted average PRA is the same date for all hospitals (October 1, 1996), but the ending date is different because it is dependent upon the cost reporting period for each hospital.

Step 2: Adjust for locality. In accordance with section 1886(h)(2) of the Act, as amended by section 311 of Public Law 106–113, once the weighted average PRA is updated according to each hospital's cost reporting period, the updated weighted average PRA (the national average PRA) would be further adjusted to calculate a locality-adjusted national average PRA for each hospital. This is done by multiplying the updated national average PRA by the 1999 GAF (as specified in the October 31, 1997 **Federal Register** (62 FR 59257)) for the fee schedule area in which the hospital is located.

Step 3: Determine possible revisions to the PRA. For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005, the locality-adjusted national average PRA, as calculated in Step 2, is then compared to the hospital's individual PRA. Based upon the provisions of section 1886(h)(2) of the Act, as amended by section 311 of Public Law 106–113, a hospital's PRA would be revised, if appropriate, according to the following:

- Floor—For cost reporting periods beginning in FY 2001, to determine which PRAs (primary care and non-primary care separately) are below the 70 percent floor, a hospital's locality-adjusted national average PRA is multiplied by 70 percent. This resulting number is then compared to the hospital's PRA that is updated for inflation to the current cost reporting period. If the hospital's PRA would be less than 70 percent of the locality-adjusted national average PRA, the individual PRA is replaced by 70 percent of the locality-adjusted national average PRA for that cost reporting period and would be updated for inflation in future years by the CPI–U.

We note that there may be some hospitals with primary care and non-primary care PRAs where both PRAs are replaced by 70 percent of the locality-adjusted national average PRA. In these situations, the hospital would receive identical PRAs; no distinction in PRAs would be made for differences in inflation (because a hospital has both primary care and non-primary care PRAs, each of which is updated as described in § 413.86(e)(3)(ii)) as of cost reporting periods beginning on or after October 1, 2000.

For example, if the FY 2001 locality-adjusted national average PRA for Area X is $100,000, then 70 percent of that amount is $70,000. If, in Area X, Hospital A has a primary care FY 2001 PRA of $69,000 and a non-primary care FY 2001 PRA of $67,000, both of Hospital A's FY 2001 PRAs are replaced by the $70,000 floor. Thus, $70,000 is the amount that would be used to determine Hospital A's direct GME payments for both primary care and

non-primary care FTEs in its cost reporting period beginning in FY 2001, and the $70,000 PRA would be updated for inflation by the CPI–U in subsequent years.

• *Ceiling*—For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005 (FY 2001 through FY 2005), a ceiling that is equal to 140 percent of each locality-adjusted national average PRA would be calculated and compared to each individual hospital's PRA. If the hospital's PRA is greater than 140 percent of the locality-adjusted national average PRA, the PRA would be adjusted depending on the fiscal year as follows:

a. FY 2001

For cost reporting periods beginning in FY 2001, each hospital's PRA from the preceding cost reporting period (that is, FY 2000) is compared to the FY 2001 locality-adjusted national average PRA. If the individual hospital's FY 2000 PRA exceeds 140 percent of the FY 2001 locality-adjusted national average PRA, the PRA is frozen at the FY 2000 PRA, and is not updated in FY 2001 by the CPI–U factor, subject to the limitation in section IV.G.2.d. of this preamble.

For example, if the FY 2001 locality-adjusted national average PRA ''ceiling'' for Area Y is $140,000 (that is, 140 percent of $100,000, the hypothetical locality-adjusted national average PRA), and if, in this area, Hospital B has a FY 2000 PRA of $140,001, then for FY 2001, Hospital B's PRA is frozen at $140,001 and is not updated by the CPI–U for FY 2001.

b. FY 2002

For cost reporting periods beginning in FY 2002, the methodology used to calculate each hospital's individual PRA would be the same as described in section IV.G.2.a. above for FY 2001. Each hospital's PRA from the preceding cost reporting period (that is, FY 2001) is compared to the FY 2002 locality-adjusted national average PRA. If the individual hospital's FY 2001 PRA exceeds 140 percent of the FY 2002 locality-adjusted national average PRA, the PRA is frozen at the FY 2001 PRA, and is not updated in FY 2002 by the CPI–U factor, subject to the limitation in section IV.G.2.d. of this preamble.

c. FY 2003, FY 2004, and FY 2005

For cost reporting periods beginning in FY 2003, FY 2004, and FY 2005, if the hospital's PRA for the previous cost reporting period is greater than 140 percent of the locality-adjusted national average PRA for that same previous cost reporting period (for example, for the cost reporting period beginning in FY 2003, compare the hospital's PRA from the FY 2002 cost reporting period to the locality-adjusted national average PRA from FY 2002), then, subject to the limitation in section IV.G.2.d. of this preamble, the hospital's PRA is updated in accordance with section 1886(h)(2)(D)(i) of the Act, except that the CPI–U applied is reduced (but not below zero) by 2 percentage points.

For example, for purposes of Hospital A's FY 2003 cost report, Hospital A's PRA for FY 2002 is compared to Hospital A's locality-adjusted national average PRA ceiling for FY 2002. If, in FY 2002, Hospital A's PRA is $100,001 and the FY 2002 locality-adjusted national average PRA ceiling is $100,000, then for FY 2003, Hospital A's PRA is updated with the FY 2003 CPI–U minus 2 percent. If, in this scenario, the CPI–U for FY 2003 is 1.024, Hospital A would update its PRA in FY 2003 by 1.004 (the CPI–U minus 2 percentage points). However, if the CPI–U factor for FY 2003 is 1.01 and subtracting 2 percentage points of 1.01 yields 0.99, the PRA for FY 2003 would not be updated, and would remain $100,001.

We note that, while the language in section 1886(h)(2)(D)(iv)(I) and in section 1886(h)(2)(D)(iv)(II) of the Act (the sections that describe the adjustments to PRAs for hospitals that exceed 140 percent of the locality-adjusted national average PRA) is very similar, the language does differ. Section 1886(h)(2)(D)(iv)(I) of the Act states that for a cost reporting period beginning during FY 2000 or FY 2001, ''if the approved FTE resident amount for a hospital for the preceding cost reporting period exceeds 140 percent of the locality-adjusted national average per resident amount * * * *for that hospital and period* * * *, the approved FTE resident amount for the period involved shall be the same as the approved FTE resident amount for such preceding cost reporting period.'' (Emphasis added.) Section 1886(h)(2)(D)(iv)(II) of the Act states that for a cost reporting period beginning during FY 2003, FY 2004, or FY 2005, ''if the approved FTE resident amount for a hospital for the preceding cost reporting period exceeds 140 percent of the locality-adjusted national average per resident amount * * * *for that hospital and preceding period*, the approved FTE resident amount for the period involved shall be updated * * . *.'' (Emphasis added.) Accordingly, for FYs 2001 and 2002, a hospital's PRA from the previous cost reporting period is compared to the locality-adjusted national average PRA of the current cost reporting period. For FY 2003, FY 2004, or FY 2005, a hospital's PRA from the previous cost reporting period is compared to the locality-adjusted national average PRA from the previous cost reporting period.

d. General Rule for Hospitals That Exceed the Ceiling

For cost reporting periods beginning in FY 2001 through FY 2005, if a hospital's PRA exceeds 140 percent of the locality-adjusted national average PRA and it is adjusted under any of the above criteria, the current year PRA cannot be reduced below 140 percent of the locality-adjusted national average PRA.

For example, to determine the PRA of Hospital A, in FY 2003, Hospital A had a FY 2002 PRA of $100,001 and the FY 2002 locality-adjusted national average PRA ceiling is $100,000. For FY 2003, applying an update of the CPI–U factor minus 2 percentage points (for example, 1.024 − .02 = 1.004 would yield an updated PRA of $100,401) while the locality-adjusted national average PRA (before calculation of the ceiling) is updated for FY 2003 with the full CPI–U factor (1.024) so that the ceiling of $100,000 is now increased to $102,400 (that is, $100,000 × 1.024 = $102,400). Therefore, applying the adjustment would result in a PRA of $100,401, which is under the ceiling of $102,400 for FY 2003. In this situation, for purposes of the FY 2003 cost report, Hospital A's PRA equals $102,400.

We note that if the hospital's PRA *does not* exceed 140 percent of the locality-adjusted national average PRA, the PRA is updated by the CPI–U for the respective fiscal year. If a hospital's PRA is updated by the CPI–U because it is less than 140 percent of the locality-adjusted national average PRA for a respective fiscal year, and once updated, the PRA exceeds the 140 percent ceiling for the respective fiscal year, the updated PRA would still be used to calculate the hospital's direct GME payments. Whether a hospital's PRA exceeds the ceiling is determined *before* the application of the update factors; if a hospital's PRA exceeds the ceiling only because of the application of the update factors, the hospital's PRA would retain the CPI–U factors.

For example, if, in FY 2001, the locality-adjusted national average PRA ceiling for Area Y is $140,000, and if, in this area, Hospital B has a FY 2000 PRA of $139,000, then for FY 2001, Hospital B's PRA is updated for inflation for FY 2001 because the PRA is below the ceiling. However, once the update factors are applied, Hospital B's PRA is now $142,000 (that is, above the $140,000 ceiling). In this scenario,

Hospital B's inflated PRA would be used to calculate its direct GME payments because Hospital B has only exceeded the ceiling *after* the application of the inflation factors.

• *PRAs greater than or equal to the floor and less than or equal to the ceiling.* For cost reporting periods beginning in FY 2001 through FY 2005, if a hospital's PRA is greater than or equal to 70 percent and less than or equal to 140 percent of the locality-adjusted national average PRA, the hospital's PRA is updated using the existing methodology specified in § 413.86(e)(3)(i).

For cost reporting periods beginning in FY 2006 and thereafter, a hospital's PRA for its preceding cost reporting period would be updated using the existing methodology specified in § 413.86(e)(3)(i).

We are proposing to redesignate the existing § 413.86(e)(4) as § 413.86(e)(5) and add the rules implementing section 1886(h)(2) of the Act, as amended by section 311 of Public Law 106–113, in the vacated § 413.86(e)(4). Because we are proposing to apply the methodology for updating the PRA for inflation that is described in existing § 413.86(e)(3), we also are proposing to amend § 413.86(e)(3) to make those rules applicable to the cost reporting periods (FY 2001 through FY 2005) specified in the proposed § 413.86(e)(4), and in subsequent cost reporting periods.

In addition, we are proposing to make a conforming change by amending proposed redesignated § 413.86(e)(5) to account for situations in which hospitals do not have a 1984 base period and establish a PRA in a cost reporting period beginning on or after October 1, 2000. We believe there are two factors to consider when a new teaching hospital establishes its PRA under proposed redesignated § 413.86(e)(5). First, for example, when calculating the weighted mean value of PRAs of hospitals located in the same geographic area or the weighted mean of the PRAs in the hospital's census region (as specified in § 412.62(f)(1)(i)), the hospitals' PRAs used to calculate the weighted mean values are subject to the provisions of proposed § 413.86(e)(4), the national average PRA methodology. Second, the resulting PRA established under proposed redesignated § 413.86(e)(5) also would be subject to the national average PRA methodology specified in proposed § 413.86(e)(4).

We also are making a clarifying amendment to the proposed redesignated § 413.86(e)(5)(i)(B) to account for an oversight in the regulations text when we amended our regulations on August 29, 1997 (62 FR 46004). In the preamble of the August 29, 1997 final rule, in setting forth our policy on the determination of per resident amounts for hospitals that did not have residents in the 1984 GME base period, we stated that we would use a ''weighted'' average of the per resident amounts for hospitals located in the same geographic area. However, we inadvertently did not include a specific reference to ''weighted'' in the language of the regulation text. Therefore, we are proposing to specify that the ''weighted mean value'' of per resident amounts of hospitals located in the same geographic wage area is used for determining the base period for certain hospitals for cost reporting periods beginning in the same fiscal years.

H. Outliers: Miscellaneous Change

Under the provisions of section 1886(d)(5)(A)(i) of the Act, the Secretary does not pay for day outliers for discharges from hospitals paid under the prospective payment systems that occur after September 30, 1997. We are proposing to make a conforming change to § 412.2(a) by deleting the reference to an additional payment for both inpatient operating and inpatient capital-related costs for cases that have an atypically long length of stay.

V. The Prospective Payment System for Capital-Related Costs: The Last Year of the Transition Period

Since FY 2001 is the last year of the 10-year transition period established to phase in the prospective payment system for hospital capital-related costs, for the readers' benefit, we are providing a summary of the statutory basis for the system, the development and evolution of the system, the methodology used to determine capital-related payments to hospitals, and the policy for providing exceptions payments during the transition period.

Section 1886(g) of the Act requires the Secretary to pay for the capital-related costs of inpatient hospital services ''in accordance with a prospective payment system established by the Secretary.'' Under the statute, the Secretary has broad authority in establishing and implementing the capital prospective payment system. We initially implemented the capital prospective payment system in the August 30, 1991 final rule (56 FR 43409), in which we established a 10-year transition period to change the payment methodology for Medicare inpatient capital-related costs from a reasonable cost-based methodology to a prospective methodology (based fully on the Federal rate).

The 10-year transition period established to phase in the prospective payment system for capital-related costs is effective for discharges occurring on or after October 1, 1991 (FY 1992) through discharges occurring on or before September 30, 2001. For FY 2001, hospitals paid under the fully prospective transition period methodology will be paid 100 percent of the Federal rate and zero percent of their hospital-specific rate, while hospitals paid under the hold-harmless transition period methodology will be paid 85 percent of their allowable old capital costs (100 percent for sole community hospitals) plus a payment for new capital costs based on the Federal rate. Fiscal year 2001 is the final year of the capital transition period and, therefore, the last fiscal year for which a portion of a hold-harmless hospital's capital costs per discharge will be paid on a cost basis (except for new hospitals). Also, since fully prospective hospitals will be paid based on 100 percent of the Federal rate and zero percent of their hospital-specific rate, we will not determine a hospital-specific rate update for FY 2001 in section IV of the Addendum of this proposed rule. Beginning with discharges occurring on or after October 1, 2001 (FY 2002), payment for capital-related costs will be determined based solely on the capital standard Federal rate. Hospitals that were defined as ''Anew'' for the purposes of capital payments during the transition period (§ 412.30(b)) will continue to be paid according to the applicable payment methodology outlined in § 412.324.

Generally, during the transition period, inpatient capital-related costs are paid on a per discharge basis, and the amount of payment depends on the relationship between the hospital-specific rate and the Federal rate during the hospital's base year. A hospital with a base year hospital-specific rate lower than the Federal rate is paid under the fully prospective payment methodology during the transition period. This method is based on a dynamic blend percentage of the hospital's hospital-specific rate and the applicable Federal rate for each year during the transition period. A hospital with a base period hospital-specific rate greater than the Federal rate is paid under the hold-harmless payment methodology during the transition period. A hospital paid under the hold-harmless payment methodology receives the higher of (1) a blended payment of 85 percent of reasonable cost for old capital plus an amount for new capital based on a portion of the Federal rate or (2) a

payment based on 100 percent of the adjusted Federal rate. The amount recognized as old capital is generally limited to the allowable Medicare capital-related costs that were in use for patient care as of December 31, 1990. Under limited circumstances, capital-related costs for assets obligated as of December 31, 1990, but put in use for patient care after December 31, 1990, also may be recognized as old capital if certain conditions are met. These costs are known as obligated capital costs. New capital costs are generally defined as allowable Medicare capital-related costs for assets put in use for patient care after December 31, 1990. Beginning in FY 2001, at the conclusion of the transition period for the capital prospective payment system, capital payments will be based solely on the Federal rate for the vast majority of hospitals.

During the transition period, new hospitals are exempt from the prospective payment system for capital-related costs for their first 2 years of operation and are paid 85 percent of their reasonable cost during that period. The hospital's first 12-month cost reporting period (or combination of cost reporting periods covering at least 12 months) beginning at least 1 year after the hospital accepts its first patient serves as the hospital's base period. Those base year costs qualify as old capital and are used to establish its hospital-specific rate used to determine its payment methodology under the capital prospective payment system. Effective with the third year of operation, the hospital is paid under either the fully prospective methodology or the hold-harmless methodology. If the fully prospective methodology is applicable, the hospital is paid using the appropriate transition blend of its hospital-specific rate and the Federal rate for that fiscal year until the conclusion of the transition period, at which time the hospital will be paid based on 100 percent of the Federal rate. If the hold-harmless methodology is applicable, the hospital will receive hold-harmless payment for assets in use during the base period for 8 years, which may extend beyond the transition period.

The basic methodology for determining capital prospective payments based on the Federal rate is set forth in § 412.312. For the purpose of calculating payments for each discharge, the standard Federal rate is adjusted as follows:

(Standard Federal Rate) × (DRG Weight) × (GAF) × (Large Urban Add-on, if applicable) x (COLA Adjustment for Hospitals Located in Alaska and Hawaii) × (1 + DSH Adjustment Factor + IME Adjustment Factor).

Hospitals may also receive outlier payments for those cases that qualify under the thresholds established for each fiscal year. Section 412.312(c) provides for a single set of thresholds to identify outlier cases for both inpatient operating and inpatient capital-related payments.

During the capital prospective payment system transition period, a hospital may also receive an additional payment under an exceptions process if its total inpatient capital-related payments are less than a minimum percentage of its allowable Medicare inpatient capital-related costs for qualifying classes of hospitals. For up to 10 years after the conclusion of the transition period, a hospital may also receive an additional payment under a special exceptions process if certain qualifying criteria are met and its total inpatient capital-related payments are less than the 70 percent minimum percentage of its allowable Medicare inpatient capital-related costs.

In accordance with section 1886(d)(9)(A) of the Act, under the prospective payment system for inpatient operating costs, hospitals located in Puerto Rico are paid for operating costs under a special payment formula. Prior to FY 1998, hospitals in Puerto Rico were paid a blended rate that consisted of 75 percent of the applicable standardized amount specific to Puerto Rico hospitals and 25 percent of the applicable national average standardized amount. However, effective October 1, 1997, under amendments to the Act enacted by section 4406 of Public Law 105–33, operating payments to hospitals in Puerto Rico are based on a blend of 50 percent of the applicable standardized amount specific to Puerto Rico hospitals and 50 percent of the applicable national average standardized amount. In conjunction with this change to the operating blend percentage, effective with discharges on or after October 1, 1997, we compute capital payments to hospitals in Puerto Rico based on a blend of 50 percent of the Puerto Rico rate and 50 percent of the Federal rate. Section 412.374 provides for the use of this blended payment system for payments to Puerto Rico hospitals under the prospective payment system for inpatient capital-related costs. Accordingly, for capital-related costs, we compute a separate payment rate specific to Puerto Rico hospitals using the same methodology used to compute the national Federal rate for capital-related costs.

In the August 30, 1991 final rule, we established a capital exceptions policy, which provides for exceptions payments during the transition period (§ 412.348). Section 412.348 provides that, during the transition period, a hospital may receive additional payment under an exceptions process when its regular payments are less than a minimum percentage, established by class of hospital, of the hospital's reasonable capital-related costs. The amount of the exceptions payment is the difference between the hospital's minimum payment level and the payments the hospital would receive under the capital prospective payment system in the absence of an exceptions payment. The comparison is made on a cumulative basis for all cost reporting periods during which the hospital is subject to the capital prospective payment transition rules. The minimum payment percentages for regular capital exceptions payments by class of hospitals for FY 2001 are:

- For sole community hospitals, 90 percent;
- For urban hospitals with at least 100 beds that have a disproportionate share patient percentage of at least 20.2 percent or that received more than 30 percent of their net inpatient care revenues from State or local governments for indigent care, 80 percent;
- For all other hospitals, 70 percent of the hospital's reasonable inpatient capital-related costs.

The provision for regular exceptions payments will expire at the end of the transition period. Payments will no longer be adjusted to reflect regular exceptions payments at § 412.348. Accordingly, for cost reporting periods beginning on or after October 1, 2001, hospitals will receive only the per discharge payment based on the Federal rate for capital costs (plus any applicable DSH or IME and outlier adjustments) unless a hospital qualifies for a special exceptions payment under § 412.348(g).

Under the special exceptions provision at § 412.348(g), an additional payment may be made for up to 10 years beyond the end of the capital prospective payment system transition period for eligible hospitals. The capital special exceptions process is budget neutral; that is, even after the end of the capital prospective payment system transition, we will continue to make an adjustment to the capital Federal rate in a budget neutral manner to pay for exceptions, as long as an exceptions policy is in force. Currently, the limited

special exceptions policy will allow for exceptions payments for 10 years beyond the conclusion of the 10-year capital transition period or through September 30, 2011.

VI. Proposed Changes for Hospitals and Hospital Units Excluded From the Prospective Payment System

A. Limits on and Adjustments to the Target Amounts for Excluded Hospitals and Units (§ 413.40(b)(4) and (g))

1. Updated Caps

Section 1886(b)(3) of the Act (as amended by section 4414 of Public Law 105–33) establishes caps on the target amounts for certain existing excluded hospitals and units for cost reporting periods beginning on or after October 1, 1997 through September 30, 2002. The caps on the target amounts apply to the following three classes of excluded hospitals: Psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals.

A discussion of how the caps on the target amounts were calculated can be found in the August 29, 1997 final rule with comment period (62 FR 46018); the May 12, 1998 final rule (63 FR 26344); the July 31, 1998 final rule (63 FR 41000), and the July 30, 1999 final rule (64 FR 41529). For purposes of calculating the caps on existing facilities, the statute required us to calculate the national 75th percentile of the target amounts for each class of hospital (psychiatric, rehabilitation, or long-term care) for cost reporting periods ending during FY 1996. Under section 1886(b)(3)(H)(iii) of the Act, the resulting amounts are updated by the market basket percentage to the applicable fiscal year. However, section 121 of Public Law 106–113 amended section 1886(b)(3)(H) of the Act to provide for an appropriate wage adjustment to the caps on the target amounts for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. We intend to publish an interim final rule with comment period implementing this provision for cost reporting periods beginning on or after October 1, 1999 and before October 1, 2000. This proposed rule addresses the wage adjustment to the caps for cost reporting periods beginning on or after October 1, 2000.

For purposes of calculating the caps, section 1886(b)(3)(H)(ii) of the Act requires the Secretary to first ''estimate the 75th percentile of the target amounts for such hospitals within such class for cost reporting periods ending during fiscal year 1996.'' Furthermore, section 1886(b)(3)(H)(iii), as added by Public Law 106–113, requires the Secretary to provide for ''an appropriate adjustment to the labor-related portion of the amount determined under such subparagraph to take into account the differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital.''

Consistent with the broad authority conferred on the Secretary by section 1886(b)(3)(H)(iii) of the Act to determine the appropriate wage adjustment, we propose to account for differences in wage-related costs by adjusting the caps to account for the following:

First, we would adjust each hospital's target amount to account for area differences in wage-related costs. For each class of hospitals (psychiatric, rehabilitation, and long-term care), we would determine the labor-related portion of each hospital's FY 1996 target amount by multiplying its target amount by the actuarial estimate of the labor-related portion of costs (or 0.71553). Similarly, we would determine the nonlabor-related portion of each hospital's FY 1996 target amount by multiplying its target amount by the actuarial estimate of the nonlabor-related portion of costs (or 0.28447).

Next, we would account for wage differences among hospitals within each class by dividing the labor-related portion of each hospital's target amount by the hospital's FY 1998 hospital wage index under the hospital inpatient prospective payment system (see § 412.63), as shown in Tables 4A and 4B of the August 29, 1997 final rule (62 FR 46070). Within each class, each hospital's wage-adjusted target amount would be calculated by adding the wage-adjusted labor-related portion of its target amount and the nonlabor-related portion of its target amount. Then, the wage-adjusted target amounts for hospitals within each class would be arrayed in order to determine the national 75th percentile caps on the target amounts for each class.

This adjustment methodology for the national 75th percentile of the target amounts is identical to the methodology we utilized for the wage index adjustment described in the August 29, 1997 final rule (62 FR 46020) to calculate the wage-adjusted 110 percent of the national median target amounts for new excluded hospitals and units. Again, we recognize that wages may differ for prospective payment hospitals and excluded hospitals, but we believe that the wage data reflect area differences in wage-related costs. Moreover, in light of the short timeframe for implementing this provision, we would use the wage data for acute hospitals since they are the most feasible data source.

In the July 30, 1999 final rule (64 FR 41529), we established the FY 2000 caps on the target amounts as follows:

- Psychiatric hospitals and units: $11,110.
- Rehabilitation hospitals and units: $20,129.
- Long-term care hospitals: $39,712.

Therefore, based on these previously calculated caps on the target amounts and consistent with the broad authority conferred on the Secretary by section 1886(b)(3)(H)(iii) of the Act to determine the appropriate wage adjustment to the caps, we have determined the labor-related and nonlabor-related portions of the proposed caps on the target amounts for FY 2001 using the methodology outlined above.

Class of excluded hospital or unit	Labor-related share	Nonlabor-related share
Psychiatric	$8,106	$3,223
Rehabilitation	15,108	6,007
Long-Term Care	29,312	11,654

These labor-related and nonlabor-related portions of the proposed caps on the target amounts for FY 2001 are based on the current estimate of the market basket increase for excluded hospitals and units for FY 2001 of 3.1 percent.

In the interim final rule with comment period that we plan to publish, we will revise §§ 413.40(c)(4)(i) and (c)(4)(ii) to incorporate the changes in the formula used to determine the limitation on the target amounts for excluded hospitals and units, as provided for by section 121 of Public Law 106–113.

Finally, to determine payments described in § 413.40(c), the cap on the hospital's target amount per discharge is determined by adding the hospital's nonlabor-related portion of the national 75th percentile cap to its wage-adjusted, labor-related portion of the national 75th percentile cap. A hospital's wage-adjusted, labor-related portion of the target amount is calculated by multiplying the labor-related portion of the national 75th percentile cap for the hospital's class by the hospital's applicable wage index. For FY 2001, a hospital's applicable wage index is the wage index under the hospital inpatient prospective payment system (see § 412.63), for cost reporting periods beginning on or after October 1, 2000 and ending on or before September 30,

2001 as shown in Tables 4A and 4B of this proposed rule. A hospital's applicable wage index corresponds to the area in which the hospital or unit is physically located (MSA or rural area) and is not subject to prospective payment system hospital reclassification under section 1886(d)(10) of the Act.

2. Updated Caps for New Excluded Hospitals and Units (§ 413.40(f))

Section 1886(b)(7) of the Act establishes a payment methodology for new psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals. Under the statutory methodology, for a hospital that is within a class of hospitals specified in the statute and that first receives payments as a hospital or unit excluded from the prospective payment system on or after October 1, 1997, the amount of payment will be determined as follows: For the first two 12-month cost reporting periods, the amount of payment is the lesser of (1) the operating costs per case; or (2) 110 percent of the national median of target amounts for the same class of hospitals for cost reporting periods ending during FY 1996, updated to the first cost reporting period in which the hospital receives payments and adjusted for differences in area wage levels.

The proposed amounts included in the following table reflect the updated 110 percent of the wage neutral national median target amounts for each class of excluded hospitals and units for cost reporting periods beginning during FY 2001. These figures are updated to reflect the projected market basket increase of 3.1 percent. For a new provider, the labor-related share of the target amount is multiplied by the appropriate geographic area wage index and added to the nonlabor-related share in order to determine the per case limit on payment under the statutory payment methodology for new providers.

Class of excluded hospital or unit	Labor-related share	Nonlabor-related share
Psychiatric	$6,592	$2,623
Rehabilitation	12,964	5,154
Long-Term Care	16,708	6,643

3. Development of Prospective Payment System for Inpatient Rehabilitation Hospitals and Units

Section 4421 of Public Law 105–33 added section 1886(j) to the Act. Section 1886(j) of the Act mandates the phase-in of a case-mix adjusted prospective payment system for inpatient rehabilitation services (freestanding hospitals and units) for cost reporting periods beginning on or after October 1, 2000 and before October 1, 2002. The prospective payment system will be fully implemented for cost reporting periods beginning on or after October 1, 2002. Section 1886(j) was amended by section 125 of Public Law 106–113 to require the Secretary to use the discharge as the payment unit under the prospective payment system for inpatient rehabilitation services and to establish classes of patient discharges by functional-related groups.

We will issue a separate notice of proposed rulemaking in the **Federal Register** on the prospective payment system for inpatient rehabilitation facilities. That document will discuss the requirements in section 1886(j)(1)(A)(i) of the Act for a transition phase covering the first two cost reporting periods under the prospective payment system. During this transition phase, inpatient rehabilitation facilities will receive a payment rate comprised of a blend of the facility specific rate (the TEFRA percentage) based on the amount that would have been paid under Part A with respect to these costs if the prospective payment system would not be implemented and the inpatient rehabilitation facility prospective payment rate (prospective payment percentage). As set forth in sections 1886(j)(1)(C)(i) and (ii) of the Act, the TEFRA percentage for a cost reporting period beginning on or after October 1, 2000, and before October 1, 2001, is 66⅔ percent; the prospective payment percentage is 33⅓ percent. For cost reporting periods beginning on or after October 1, 2001 and before October 1, 2002, the TEFRA percentage is 33⅓ percent and the prospective payment percentage is 66⅔ percent.

As provided in section 1886(j)(3)(A) of the Act, the prospective payment rates will be based on the average inpatient operating and capital costs of rehabilitation facilities and units. Payments will be adjusted for case-mix using patient classification groups, area wages, inflation, outlier status and any other factors the Secretary determines necessary. We will propose to set prospective payment amounts in effect during FY 2001 so that total payments under the system are projected to equal 98 percent of the amount of payments that would have been made under the current payment system. Outlier payments in a fiscal year may not be projected or estimated to exceed 5 percent of the total payments based on the rates for that fiscal year.

4. Continuous Improvement Bonus Payment

Under § 413.40(d)(4), for cost reporting periods beginning on or after October 1, 1997, an ''eligible'' hospital may receive continuous improvement bonus payments in addition to its payment for inpatient operating costs plus a percentage of the hospital's rate-of-increase ceiling (as specified in § 413.40(d)(2)). An eligible hospital is a hospital that has been a provider excluded from the prospective payment system for at least three full cost reporting periods prior to the applicable period and the hospital's operating costs per discharge for the applicable period are below the lowest of its target amount, trended costs, or expected costs for the applicable period. Prior to enactment of Public Law 106–113, the amount of the continuous improvement bonus payment was equal to the lesser of—

(a) 50 percent of the amount by which operating costs were less than the expected costs for the period; or

(b) 1 percent of the ceiling.

Section 122 of Public Law 106–113 amended section 1886(b)(2) of the Act to provide, for cost reporting periods beginning on or after October 1, 2000, and before September 30, 2001, for an increase in the continuous improvement bonus payment for long-term care and psychiatric hospitals and units. Under section 1886(b)(2) of the Act, as amended, a hospital that is within one of these two classes of hospitals (psychiatric hospitals or units and long-term-care hospitals) will receive the lesser of 50 percent of the amount by which the operating costs are less than the expected costs for the period, or the increased percentages mandated by statute as follows:

(a) For a cost reporting period beginning on or after October 1, 2000 and before September 30, 2001, 1.5 percent of the ceiling; and

(b) For a cost reporting period beginning on or after October 1, 2001, and before September 30, 2002, 2 percent of the ceiling.

We are proposing to revise § 413.40(d)(4) to incorporate this provision of the statute.

B. Responsibility for Care of Patients in Hospitals-Within-Hospitals (§ 413.40(a)(3))

Effective October 1, 1999, for hospitals-within-hospitals, we implemented a policy that allows for a 5-percent threshold for cases in which a patient discharged from an excluded hospital-within-a-hospital and admitted to the host hospital was subsequently

readmitted to the excluded hospital-within-a-hospital. With respect to these cases, if the excluded hospital exceeds the 5-percent threshold, we do not include any previous discharges to the prospective payment hospital in calculating the excluded hospital's cost per discharge. That is, the entire stay is considered one Medicare ''discharge'' for purposes of payments to the excluded hospital. The effect of this rule, as explained more fully in the May 7, 1999 proposed rule (64 FR 24716) and in the July 30, 1999 final rule (64 FR 41490), is to prevent inappropriate Medicare payment to hospitals having a large number of such stays.

In the existing regulations at § 413.40(a)(3), we state that the 5-percent threshold is determined based on the total number of discharges from the hospital-within-a-hospital. We have received questions as to whether, in determining whether the threshold is met, we consider Medicare patients only or all patients (Medicare and non-Medicare). To avoid any further misunderstanding, we are clarifying the definition of ''ceiling'' in § 413.40(a)(3) by specifying that the 5-percent threshold is based on the *Medicare* inpatients discharged from the hospital-within-a-hospital in a particular cost reporting period, not on total Medicare and non-Medicare inpatient discharges.

C. Critical Access Hospitals (CAHs)

1. Election of Payment Method (§ 413.70)

Section 1834(g) of the Act, as in effect before enactment of Public Law 106–113, provided that the amount of payment for outpatient CAH services is the reasonable costs of the CAH in providing such services. However, the reasonable costs of the CAH's services to outpatients included only the CAH's costs of providing facility services, and did not include any payment for professional services. Physicians and other practitioners who furnished professional services to CAH outpatients billed the Part B carrier for these services and were paid under the physician fee schedule in accordance with the provisions of section 1848 of the Act.

Section 403(d) of Public Law 106–113 amended section 1834(g) of the Act to permit the CAH to elect to be paid for its outpatient services under another option. CAHs making this election would be paid amounts equal to the sum of the following, less the amount that the hospital may charge as described in section 1866(a)(2)(A) of the Act (that is, Part A and Part B deductibles and coinsurance):

(1) For facility services, not including any services for which payment may be made as outpatient professional services, the reasonable costs of the CAH in providing the services; and

(2) For professional services otherwise included within outpatient CAH services, the amounts that would otherwise be paid under Medicare if the services were not included in outpatient CAH services.

Section 403(d) of Public Law 106–113 added section 1834(g)(3) to the Act to further specify that payment amounts under this election are be determined without regard to the amount of the customary or other charge.

The amendment made by section 403(d) is effective for cost reporting periods beginning on or after October 1, 2000.

We are proposing to revise § 413.70 to incorporate the provisions of section 403(d) of Public Law 106–113. The existing § 413.70 specifies a single set of reasonable cost basis payment rules applicable to both inpatient and outpatient services furnished by CAHs. As section 403(d) of Public Law 106–113 provides that CAHs may elect to be paid on a reasonable cost basis for facility services and on a fee schedule basis for professional services, we are proposing to revise the section to allow for separate payment rules for CAH inpatient and outpatient services.

We are proposing to place the provisions of existing § 413.70(a) and (b) that relate to payment on a reasonable cost basis for inpatient services furnished by a CAH under proposed § 413.70(a). Proposed § 413.70(a)(2) would also state that payment to a CAH for inpatient services does not include professional services to CAH inpatients and is subject to the Part A hospital deductible and coinsurance determined under 42 CFR part 409, Subpart G.

We are proposing to include under § 413.70(b) the payment rules for outpatient services furnished by CAHs, including the option for CAHs to elect to be paid on the basis of reasonable costs for facility services and on the basis of the physician fee schedule for professional services. Under proposed § 413.70(b)(2), we would retain the existing provision that unless the CAH elects the option provided for under section 403 of Public Law 106–113, payment for outpatient CAH services is on a reasonable cost basis, as determined in accordance with section 1861(v)(1)(A) of the Act and the applicable principles of cost reimbursement in Parts 413 and 415 (except for certain payment principles that do not apply; that is, the lesser of costs or charges, RCE limits, any type of reduction to operating or capital costs under § 413.124 or § 413.130(j)(7), and blended payment amounts for ambulatory surgical center services, radiology services, and other diagnostic services.

Under proposed § 413.70(b)(3), we would specify that any CAH that elects to be paid under the optional method must make an annual request in writing, and deliver the request for the election to the fiscal intermediary at least 60 days before the start of the affected cost reporting period. In addition, proposed § 413.70(b)(3) states that if a CAH elects payment under this method, payment to the CAH for each outpatient visit will be the sum of the following two amounts:

- For facility services, not including any outpatient professional services for which payment may be made on a fee schedule basis, the amount would be the reasonable costs of the services as determined in accordance with applicable principles of cost reimbursement in 42 CFR Parts 413 and 415, except for certain payment principles that would not apply as specified above; and
- For professional services, otherwise payable to the physician or other practitioner on a fee schedule basis, the amounts would be those amounts that would otherwise be paid for the services if the CAH had not elected payment under this method.

We would also specify that payment to a CAH for outpatient services would be subject to the Part B deductible and coinsurance amounts, as determined under §§ 410.152, 410.160, and 410.161. Final payment to the CAH for its facility services to inpatients and outpatients furnished during a cost reporting would be based on a cost report for that period, as required under § 413.20(b).

2. Condition of Participation: Organ, Tissue, and Eye Procurement (§ 485.643)

Sections 1820(c)(2)(B) and 1861(mm) of the Act set forth the criteria for designating a CAH. Under this authority, the Secretary has established in regulations the minimum requirements a CAH must meet to participate in Medicare (42 CFR part 485, Subpart F).

Section 1905(a) of the Act provides that Medicaid payments may be made for any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary. The Secretary has specified CAH services as Medicaid services in regulations, specifically, the regulations at 42 CFR 440.170(g)(1)(i), and defined CAH services under Medicaid as those services furnished by a provider

meeting the Medicare conditions of participation (CoP).

Section 1138 of the Act provides that a CAH participating in Medicare must establish written protocols to identify potential organ donors that: (1) Assures that potential donors and their families are made aware of the full range of options for organ or tissue donation as well as their rights to decline donation; (2) encourage discretion and sensitivity with respect to the circumstances, views, and beliefs of those families; and (3) require that an organ procurement agency designated by the Secretary be notified of potential organ donors.

On June 22, 1998, as part of the Medicare hospital conditions of participation under Part 482, subpart C, we added to the regulations at § 482.45, a condition that specifically addressed organ, tissue, and eye procurement. However, Part 482 does not apply to CAHs, as CAHs are a distinct type of provider with separate CoP under Part 485. Therefore, we are proposing to add a CoP for organ, tissue, and eye procurement for CAHs at a new § 485.643 that generally parallels the CoP at § 482.45 for all Medicare hospitals with respect to the statutory requirement in section 1138 of the Act concerning organ donation. CAHs are not full service hospitals and therefore are not equipped to perform organ transplantations. Therefore, we are not including the standard applicable to Medicare hospitals that CAHs must be a member of the Organ Procurement and Transplantation Network (OPTN), abide by its rules and provide organ transplant-related data to the OPTN, the Scientific Registry, organ procurement agencies, or directly to the Department on request of the Secretary.

The proposed CoP for CAHs includes several requirements designed to increase organ donation. One of these requirements is that a CAH must have an agreement with the Organ Procurement Organization (OPO) designated by the Secretary, under which the CAH will contact the OPO in a timely manner about individuals who die or whose death is imminent. The OPO will then determine the individual's medical suitability for donation. In addition, the CAH must have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes, as long as the agreement does not interfere with organ donation. The proposed CoP would require a CAH to ensure, in collaboration with the OPO with which it has an agreement, that the family of every potential donor is informed of its option to either donate or not donate organs, tissues, or eyes. The CAH may choose to have OPO staff perform this function, have CAH and OPO staff jointly perform this function, or rely exclusively on CAH staff. Research indicates that consent to organ donation is highest when the formal request is made by OPO staff or by OPO staff and hospital staff together. While we require collaboration, we also recognize that CAH staff may wish to perform this function and may do so when properly trained. Moreover, the CoP would require the CAH to ensure that CAH employees who initiate a request for donation to the family of a potential donor have been trained as designated requestors.

Finally, the CoP would require the CAH to work with the OPO and at least one tissue bank and one eye bank in educating staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining potential donors while necessary testing and placement of organs and tissues is underway.

We are sensitive to the possible burden this proposed CoP may place on CAHs. Therefore, we are particularly interested in comments and information concerning the following requirements: (1) Developing written protocols for donations; (2) developing agreements with OPOs, tissue banks, and eye banks; (3) referring all deaths to the OPO; (4) working cooperatively with the designated OPO, tissue bank, and eye bank in educating staff on donation issues, reviewing death records, and maintaining potential donors. We note that the proposed requirement allow some degree of flexibility for the CAH. For example, the CAH would have the option of using an OPO-approved education program to train its own employees as routine requestors or deferring requesting services to the OPO, the tissue bank, or the eye bank to provide requestors.

VII. MedPAC Recommendations

We have reviewed the March 1, 2000 report submitted by MedPAC to Congress and have given it careful consideration in conjunction with the proposals set forth in this document. MedPAC's recommendations and our responses are set forth below.

We note that MedPAC's March 1, 2000 report did not contain a recommendation concerning the update factors for inpatient hospital operating costs under the prospective payment system or for hospitals and hospital units excluded from the prospective payment system. However, at its April 13, 2000 public meeting, MedPAC announced that it was recommending a combined update of between 3.5 percent and 4.0 percent for operating and capital-related payments for FY 2001. This recommendation is higher than the current law amount as prescribed by Public Law 105–33 and proposed in this rule. Because of the timing of MedPAC's announcement in relation to the publication of this proposed rule, we intend to respond to MedPAC's recommendation in the FY 2001 final rule to be issued in August 2000 when we will have had the opportunity to review the data analyses that substantiate MedPAC's recommendation.

A. Combined Operating and Capital Prospective Payment Systems (Recommendation 3J)

Recommendation: The Congress should combine prospective payment system operating and capital payment rates to create a single prospective rate for hospital inpatient care. This change would require a single set of payment adjustments—in particular, for indirect medical education and disproportionate share hospital payments—and a single payment update.

Response: We responded to a similar comment in the July 30, 1999 final rule (64 FR 41552), the July 31, 1998 final rule (63 FR 41013), and the September 1, 1995 final rule (60 FR 45816). In those rules, we stated that our long-term goal was to develop a single update framework for operating and capital prospective payments and that we would begin development of a unified framework. However, we have not yet developed such a single framework as the actual operating system update has been determined by Congress through FY 2002. In the meantime, we intend to maintain as much consistency as possible with the current operating framework in order to facilitate the eventual development of a unified framework. We maintain our goal of combining the update frameworks at the end of the 10-year capital transition period (the end of FY 2001) and may examine combining the payment systems post-transition. Because of the similarity of the update frameworks, we believe that they could be combined with little difficulty.

In the discussion of its recommendation, MedPAC notes that it ''is examining broad reforms to the prospective payment system, including DRG refinement and modifications of the graduate medical education payment and the IME and DSH adjustments. The Commission believes that a combined hospital prospective payment rate should be established

whether or not broader reforms are undertaken. However, if the Congress acts on any or all of the Commission's recommendations, it should consider combining operating and capital payments as part of a larger package.''

We agree that ultimately the operating and capital prospective payment systems should be combined into a single system. However, we believe that, because of MedPAC's ongoing analysis and the Administration's pending DSH report to Congress, any such unification should occur within the context of other system refinements.

B. Continuing Postacute Transfer Payment Policy (Recommendation 3K)

Recommendation: The Commission recommends continuing the existing policy of adjusting per case payments through an expanded transfer policy when a short length of stay results from a portion of the patient's care being provided in another setting.

Response: As noted in section IV.A. of this preamble, we have undertaken (through a contract with HER) an analysis of the impact on hospitals and hospital payments of the postacute transfer provision. That analysis (based on preliminary data covering only approximately 6 months of discharge data) showed a minimal impact on the rate of short-stay postacute transfers after implementation of the policy. However, average profit margins as measured by HER declined from $2,454 prior to implementation of the policy to $1,180 after implementation. We believe these preliminary findings demonstrate that the postacute transfer provision has had only marginal impact on existing practice patterns while more closely aligning the payments to hospitals for these cases with the costs incurred. Therefore, we agree with MedPAC's recommendation that the policy should be continued.

C. Disproportionate Share Hospitals (DSH) (Recommendations 3L and 3M)

Recommendation: To address longstanding problems and current legal and regulatory developments, Congress should reform the disproportionate share adjustment to: include the costs of all poor patients in calculating low-income shares used to distribute disproportionate share payments, and use the same formula to distribute payments to all hospitals covered by prospective payment.

Response: As we noted in section IV.E. of this preamble, Public Law 106–113 directed the Secretary to require subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Act) to submit data on costs incurred for providing inpatient and outpatient hospital services for which the hospital is not compensated, including non-Medicare bad debt, charity care, and charges for Medicaid and indigent care. These data must be reported on the hospital's cost reports for cost reporting periods beginning on or after October 1, 2001, and will provide information that will enable MedPAC and us to evaluate potential refinements to the DSH formula to address issues referred to by MedPAC.

Medicare fiscal intermediaries will audit these data to ensure their accuracy and consistency. Our experience with administering the current DSH formula leads us to believe that this auditing function would necessarily be extensive, because the non-Medicare data that would be collected have never before been collected and reviewed by Medicare's fiscal intermediaries. The data would have to be determined to be accurate and usable, and corrected if necessary.

We agree that the current statutory payment formula could be improved, largely because of different threshold levels and different formula parameters applicable to different groups of hospitals. We are in the process of preparing a report to Congress on the Medicare DSH adjustment that includes several options for amending the statutory formula.

Recommendation: To provide further protection for the primarily voluntary hospitals with mid-level low-income shares, the minimum value, or threshold, for the low-income share that a hospital must have before payment is made should be set to make 60 percent of hospitals eligible to receive disproportionate share payments.

Response: Currently, approximately less than 40 percent of all prospective payment system hospitals receive DSH payments. Therefore, this recommendation would entail significant redistributions of existing DSH payments if implemented in a budget neutral manner. We are particularly concerned about the effect of this recommendation on hospitals receiving substantial DSH payments currently, including major teaching hospitals and public hospitals. The analysis by MedPAC demonstrates that these hospitals would be negatively impacted if more hospitals were made eligible for DSH payments.

VIII. Other Required Information

A. Requests for Data From the Public

In order to respond promptly to public requests for data related to the prospective payment system, we have set up a process under which commenters can gain access to the raw data on an expedited basis. Generally, the data are available in computer tape or cartridge format; however, some files are available on diskette as well as on the Internet at http://www.hcfa.gov/stats/pubfiles.html. Data files are listed below with the cost of each. Anyone wishing to purchase data tapes, cartridges, or diskettes should submit a written request along with a company check or money order (payable to HCFA–PUF) to cover the cost to the following address: Health Care Financing Administration, Public Use Files, Accounting Division, P.O. Box 7520, Baltimore, Maryland 21207–0520, (410) 786–3691. Files on the Internet may be downloaded without charge.

1. Expanded Modified MedPAR-Hospital (National)

The Medicare Provider Analysis and Review (MedPAR) file contains records for 100 percent of Medicare beneficiaries using hospital inpatient services in the United States. (The file is a Federal fiscal year file, that is, discharges occurring October 1 through September 30 of the requested year.) The records are stripped of most data elements that would permit identification of beneficiaries. The hospital is identified by the 6-position Medicare billing number. The file is available to persons qualifying under the terms of the Notice of Proposed New Routine Uses for an Existing System of Records published in the **Federal Register** on December 24, 1984 (49 FR 49941), and amended by the July 2, 1985 notice (50 FR 27361). The national file consists of approximately 11 million records. Under the requirements of these notices, an agreement for use of HCFA Beneficiary Encrypted Files must be signed by the purchaser before release of these data. For all files requiring a signed agreement, please write or call to obtain a blank agreement form before placing an order. Two versions of this file are created each year. They support the following:

- Notice of Proposed Rulemaking (NPRM) published in the **Federal Register**. This file, scheduled to be available by the end of April, is derived from the MedPAR file with a cutoff of 3 months after the end of the fiscal year (December file).
- Final Rule published in the **Federal Register**. The FY 1999 MedPAR file used for the FY 2001 final rule will be cut off 6 months after the end of the fiscal year (March file) and is scheduled to be available by the end of April.

Media: Tape/Cartridge
File Cost: $3,655.00 per fiscal year

Periods Available: FY 1988 through FY 1999

2. Expanded Modified MedPAR-Hospital (State)

The State MedPAR file contains records for 100 percent of Medicare beneficiaries using hospital inpatient services in a particular State. The records are stripped of most data elements that will permit identification of beneficiaries. The hospital is identified by the 6-position Medicare billing number. The file is available to persons qualifying under the terms of the Notice of Proposed New Routine Uses for an Existing System of Records published in the December 24, 1984 **Federal Register** notice, and amended by the July 2, 1985 notice. This file is a subset of the Expanded Modified MedPAR-Hospital (National) as described above. Under the requirements of these notices, an agreement for use of HCFA Beneficiary Encrypted Files must be signed by the purchaser before release of these data. Two versions of this file are created each year. They support the following:

- NPRM published in the **Federal Register**. This file, scheduled to be available by the end of April, is derived from the MedPAR file with a cutoff of 3 months after the end of the fiscal year (December file).
- Final Rule published in the **Federal Register**. The FY 1999 MedPAR file used for the FY 2001 final rule will be cut off 6 months after the end of the fiscal year (March file) and is scheduled to be available by the end of April.

Media: Tape/Cartridge
File Cost: $1,130.00 per State per year
Periods Available: FY 1988 through FY 1999

3. HCFA Wage Data

This file contains the hospital hours and salaries for FY 1997 used to create the proposed FY 2001 prospective payment system wage index. The file will be available by the beginning of February for the NPRM and the beginning of May for the final rule.

Processing year	Wage data year	PPS fiscal year
2000	1997	2001
1999	1996	2000
1998	1995	1999
1997	1994	1998
1996	1993	1997
1995	1992	1996
1994	1991	1995
1993	1990	1994
1992	1989	1993
1991	1988	1992

These files support the following:

- NPRM published in the **Federal Register**.
- Final Rule published in the **Federal Register**.

Media: Diskette/most recent year on the Internet

File Cost: $165.00 per year

Periods Available: FY 2001 PPS Update

4. HCFA Hospital Wages Indices (Formerly: Urban and Rural Wage Index Values Only)

This file contains a history of all wage indices since October 1, 1983.

Media: Diskette/most recent year on the Internet

File Cost: $165.00 per year

Periods Available: FY 2001 PPS Update

5. PPS SSA/FIPS MSA State and County Crosswalk

This file contains a crosswalk of State and county codes used by the Social Security Administration (SSA) and the Federal Information Processing Standards (FIPS), county name, and a historical list of Metropolitan Statistical Area (MSA).

Media: Diskette/Internet

File Cost: $165.00 per year

Periods Available: FY 2001 PPS Update

6. Reclassified Hospitals New Wage Index (Formerly: Reclassified Hospitals by Provider Only)

This file contains a list of hospitals that were reclassified for the purpose of assigning a new wage index. Two versions of these files are created each year. They support the following:

- NPRM published in the **Federal Register**.
- Final Rule published in the **Federal Register**.

Media: Diskette/Internet

File Cost: $165.00 per year

Periods Available: FY 2001 PPS Update

7. PPS–IV to PPS–XII Minimum Data Set

The Minimum Data Set contains cost, statistical, financial, and other information from Medicare hospital cost reports. The data set includes only the most current cost report (as submitted, final settled, or reopened) submitted for a Medicare participating hospital by the Medicare fiscal intermediary to HCFA. This data set is updated at the end of each calendar quarter and is available on the last day of the following month.

MEDIA: TAPE/CARTRIDGE

	Periods beginning on or after	and before
PPS–IV	10/01/86	10/01/87
PPS–V	10/01/87	10/01/88
PPS–VI	10/01/88	10/01/89
PPS–VII	10/01/89	10/01/90
PPS–VIII	10/01/90	10/01/91
PPS–IX	10/01/91	10/01/92
PPS–X	10/01/92	10/01/93
PPS–XI	10/01/93	10/01/94
PPS–XIII	10/01/94	10/01/95

(**Note:** The PPS–XIII, PPS–XIV, and PPS–XV Minimum Data Sets are part of the PPS–XIII, PPS–XIV, and PPS–XV Hospital Date Set Files).

File Cost: $770.00 per year

8. PPS–IX to PPS–XII Capital Data Set

The Capital Data Set contains selected data for capital-related costs, interest expense and related information and complete balance sheet data from the Medicare hospital cost report. The data set includes only the most current cost report (as submitted, final settled or reopened) submitted for a Medicare certified hospital by the Medicare fiscal intermediary to HCFA. This data set is updated at the end of each calendar quarter and is available on the last day of the following month.

MEDIA: TAPE/CARTRIDGE

	Periods beginning on or after	and before
PPS–IX	10/01/91	10/01/92
PPS–X	10/01/92	10/01/93
PPS–XI	10/01/93	10/01/94
PPS–XII	10/01/94	10/01/95

(**Note:** The PPS–XIII, PPS–XIV, and PPS–XV Capital Data Sets are part of the PPS–XIII, PPS–XIV, PPS–XV Hospital Data Set files.)

File Cost: $770.00 per year

9. PPS–XIII to PPS–XV Hospital Data Set

The file contains cost, statistical, financial, and other data from the Medicare Hospital Cost Report. The data set includes only the most current cost report (as submitted, final settled, or reopened) submitted for a Medicare-certified hospital by the Medicare fiscal intermediary to HCFA. The data set are updated at the end of each calendar quarter and is available on the last day of the following month.

Media: Diskette/Internet

File Cost: $2,500.00

	Periods beginning on or after	and before
PPS–XIII	10/01/95	10/01/96
PPS–XIV	10/01/96	10/01/97
PPS–XV	10/01/97	10/01/98

10. Provider-Specific File

This file is a component of the PRICER program used in the fiscal intermediary's system to compute DRG payments for individual bills. The file contains records for all prospective payment system eligible hospitals, including hospitals in waiver States, and data elements used in the prospective payment system recalibration processes and related activities. Beginning with December 1988, the individual records were enlarged to include pass-through per diems and other elements.

Media: Diskette/Internet
File Cost: $265.00
Periods Available: FY 2001 PPS Update

11. HCFA Medicare Case-Mix Index File

This file contains the Medicare case-mix index by provider number as published in each year's update of the Medicare hospital inpatient prospective payment system. The case-mix index is a measure of the costliness of cases treated by a hospital relative to the cost of the national average of all Medicare hospital cases, using DRG weights as a measure of relative costliness of cases. Two versions of this file are created each year. They support the following:

- NPRM published in the **Federal Register**.
- Final rule published in the **Federal Register**.

Media: Diskette/most recent year on Internet
Price: $165.00 per year/per file
Periods Available: FY 1985 through FY 1999

12. DRG Relative Weights (Formerly Table 5 DRG)

This file contains a listing of DRGs, DRG narrative description, relative weights, and geometric and arithmetic mean lengths of stay as published in the **Federal Register**. The hard copy image has been copied to diskette. There are two versions of this file as published in the **Federal Register:**

- NPRM.
- Final rule.

Media: Diskette/Internet
File Cost: $165.00
Periods Available: FY 2001 PPS Update

13. PPS Payment Impact File

This file contains data used to estimate payments under Medicare's hospital inpatient prospective payment systems for operating and capital-related costs. The data are taken from various sources, including the Provider-Specific File, Minimum Data Sets, and prior impact files. The data set is abstracted from an internal file used for the impact analysis of the changes to the prospective payment systems published in the **Federal Register**. This file is available for release 1 month after the proposed and final rules are published in the **Federal Register**.

Media: Diskette/Internet
File Cost: $165.00
Periods Available: FY 2001 PPS Update

14. AOR/BOR Tables

This file contains data used to develop the DRG relative weights. It contains mean, maximum, minimum, standard deviation, and coefficient of variation statistics by DRG for length of stay and standardized charges. The BOR tables are ''Before Outliers Removed'' and the AOR is ''After Outliers Removed.'' (Outliers refers to statistical outliers, not payment outliers.) Two versions of this file are created each year. They support the following:

- NPRM published in the **Federal Register**.
- Final rule published in the **Federal Register**.

Media: Diskette/Internet
File Cost: $165.00
Periods Available: FY 2001 PPS Update

For further information concerning these data tapes, contact The HCFA Public Use Files Hotline at (410) 786–3691.

Commenters interested in obtaining or discussing any other data used in constructing this rule should contact Stephen Phillips at (410) 786–4531.

B. Information Collection Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.
- We are soliciting public comment on each of these issues for the sections that contain information collection requirements.

Section 412.77, Determination of the Hospital-Specific Rate for Inpatient Operating Costs for Certain Sole Community Hospitals Based on a Federal Fiscal Year 1996 Base Period, and 412.92, Special Treatment: Sole Community Hospitals

Sections 412.77(a)(2) and 412.92(d)(1)(ii) state that an otherwise eligible hospital that elects not to receive payment based on its hospital-specific rate as determined under § 412.77 must notify its fiscal intermediary of its decision prior to the beginning of its cost reporting period beginning on or after October 1, 2000.

We estimate that it will take each hospital that notifies its intermediary of its election not to receive payments based on its hospital-specific rate as determined under § 412.77 an hour to draft and send its notice. However, we are unable at this time to determine how many hospitals will make this election and, therefore, will need to notify their intermediaries of their decision.

Section 485.643, Condition of Participation: Organ, Tissue, and Eye Procurement

It is important to note that because of the inherent flexibility of this proposed regulation, the extent of the information collection requirements is dependent upon decisions that will be made either by the CAH or by the CAH in conjunction with the OPO or the tissue and eye banks, or both. Thus, the paperwork burden on individual CAHs will vary and is subject, in large part, to their decisionmaking.

The burden associated with the requirements of this section include: (1) The requirement to maintain protocol documentation demonstrating that the five requirements of this section have been met; (2) the requirement for a CAH to notify an OPO, a tissue bank, or an eye bank of any imminent or actual death; and (3) the time required for a hospital to document and maintain OPO referral information.

We estimate that, on average, the requirement to maintain protocol documentation demonstrating that the requirements of this section have been met will impose one hour of burden on each CAH (on 161 CAHs) on an annual basis (a total of 161 annual burden hours).

The CoP in this section would require CAHs to notify the OPO about every

death that occurs in the CAH. The average Medicare hospital has approximately 165 beds and 200 deaths per year. However, by statute and regulation, CAHs may use no more than 15 beds for acute care services. Assuming that the number of deaths in a hospital is related to the number of acute care beds, there should be approximately 18 deaths per year in the average CAH. We estimated that the average notification telephone call to the OPO takes 5 minutes. Based on this estimate, a CAH would need approximately 90 minutes per year to notify the OPO about all deaths and imminent deaths.

Under the proposed CoP, a CAH may agree to have the OPO determine medical suitability for tissue and eye donation or may have alternative arrangements with a tissue bank and an eye bank. These alternative arrangements could include the CAH's direct notification of the tissue and eye bank of potential tissue and eye donors or direct notification of all deaths. If a CAH chose to contact both a tissue bank and an eye bank directly on all deaths, it would need an additional 6 hours per year (that is, 5 minutes per call) in order to call both the tissue and eye bank directly. Again, the impact is small, and the proposed regulation permits the CAH to decide how this process will take place. Note that many communities already have a one-phone call system in place. In addition, some OPOs are also tissue banks or eye banks, or both. A CAH that chose to use the OPO's tissue and eye bank services in these localities would need to make only one telephone call on every death.

We estimate that additional time would be needed by the CAH to annotate the patient record or fill out a form regarding the disposition of a call to the OPO or the tissue bank or the eye bank, or both. This recordkeeping should take no more than 5 minutes per call. Therefore, the paperwork burden associated with the call(s) would add up to an additional 270 minutes per year per CAH.

In summary, the information collection requirements of this section would be a range of from 3 to 9 hours per CAH, or 483 to 1,449 hours annually nationally.

If you comment on these information collection and recordkeeping requirements, please mail copies directly to the following addresses:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Attn: John Burke HCFA–1118-P; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503. Attn: Allison Herron Eydt, HCFA Desk Officer.

These new information collection and recordkeeping requirements have been submitted to the Office of Management and Budget (OMB) for review under the authority of PRA. We have submitted a copy of the proposed rule to OMB for its review of the information collection requirements. These requirements will not be effective until they have been approved by OMB.

The requirements associated with a hospital's application for a geographic redesignation, codified in Part 412, are currently approved by OMB under OMB approval number 0938–0573, with an expiration date of September 30, 2002.

C. Public Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments concerning the provisions of this proposed rule that we receive by the date and time specified in the **DATES** section of this preamble and respond to those comments in the preamble to that rule. We emphasize that section 1886(e)(5) of the Act requires the final rule for FY 2001 to be published by August 1, 2000, and we will consider only those comments that deal specifically with the matters discussed in this proposed rule.

List of Subjects

42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Part 485

Grant programs—health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Chapter IV is proposed to be amended as set forth below:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

A. Part 412 is amended as follows:

1. The authority citation for Part 412 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 412.2 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 412.2 Basis of payment.

(a) *Payment on a per discharge basis.* * * * An additional payment is made for both inpatient operating and inpatient capital-related costs, in accordance with subpart F of this part, for cases that are extraordinarily costly to treat.

* * * * *

§ 412.4 [Amended]

3. In § 412.4(f)(3), the reference to ''§ 412.2(e)'' is removed and '' 412.2(b)'' is added in its place.

4. Section 412.63 is amended by:

a. Revising paragraph (s);

b. Redesignating paragraphs (t), (u), (v), and (w) as paragraphs (u), (v), (w), and (x) respectively; and

c. Adding a new paragraph (t), to read as follows:

§ 412.63 Federal rates for inpatient operating costs for fiscal years after Federal fiscal year 1984.

* * * * *

(s) *Applicable percentage change for fiscal year 2001.* The applicable percentage change for fiscal year 2001 is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this subchapter) for sole community hospitals and the increase in the market basket index minus 1.1 percentage points for other hospitals in all areas.

(t) *Applicable percentage change for fiscal year 2002.* The applicable percentage change for fiscal year 2002 is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this subchapter) minus 1.1 percentage points for hospitals in all areas.

* * * * *

5. Section 412.73 is amended by revising paragraph (c)(12) and adding paragraphs (c)(13), (c)(14), and (c)(15), to read as follows:

§ 412.73 Determination of the hospital-specific rate based on a Federal fiscal year 1982 base period.

* * * * *

(c) *Updating base-year costs* * * *

(12) *For Federal fiscal years 1996 through 2000.* For Federal fiscal years

1996 through 2000, the update factor is the applicable percentage change for other prospective payment hospitals in each respective year as set forth in §§ 412.63(n) through (r).

(13) *For Federal fiscal year 2001.* For Federal fiscal year 2001, the update factor is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this chapter).

(14) *For Federal fiscal year 2002.* For Federal fiscal year 2002, the update factor is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this chapter) minus 1.1 percentage points.

(15) *For Federal fiscal year 2003 and for subsequent years.* For Federal fiscal year 2003 and subsequent years, the update factor is the percentage increase in the market basket index for prospective payment hospitals (as defined in § 413.40(a) of this chapter).

* * * * *

§ 412.75 [Amended]

6. In § 412.75(d), the cross reference ''§ 412.73 (c)(5) through (c)(12)'' is removed and ''§ 412.75(c)(15)'' is added in its place.

§ 412.76 [Redesignated]

7. Section 412.76 is redesignated as a new § 412.78.

8. A new § 412.77 is added to read as follows:

§ 412.77 Determination of the hospital-specific rate for inpatient operating costs for certain sole community hospitals based on a Federal fiscal year 1996 base period.

(a) *Applicability.* (1) This section applies to a hospital that has been designated as a sole community hospital, as described in § 412.72, that received payment for its cost reporting period beginning during 1999 based on its hospital-specific rate for either fiscal year 1982 under § 412.73 or fiscal year 1987 under § 412.75, and that elects under paragraph (a)(2) of this section to be paid based on a fiscal year 1996 base period.

(2) Hospitals that are otherwise eligible for but elect not to receive payment on the basis of their Federal fiscal year 1996 updated costs per case must notify their fiscal intermediary of this decision prior to the beginning of their cost reporting period beginning on or after October 1, 2000, for which such payments would otherwise be made. If a hospital does not make the notification to its fiscal intermediary before the end of the cost reporting period, the hospital is deemed to have elected to have section 1886(b)(3)(I) of the Act apply to the hospital.

(3) This section applies only to cost reporting periods beginning on or after October 1, 2000.

(4) The formula for determining the hospital-specific costs for hospitals described under paragraph (a)(1) of this section is set forth in paragraph (f) of this section.

(b) *Base-period costs for hospitals subject to fiscal year 1996 rebasing.* (1) *General rule.* Except as provided in paragraph (b)(2) of this section, for each hospital eligible under paragraph (a) of this section, the intermediary determines the hospital's Medicare Part A allowable inpatient operating costs, as described in § 412.2(c), for the 12-month or longer cost reporting period ending on or after September 30, 1996 and before September 30, 1997, and computes the hospital-specific rate for purposes of determining prospective payment rates for inpatient operating costs as determined under § 412.92(d).

(2) *Exceptions.* (i) If the hospital's last cost reporting period ending before September 30, 1997 is for less than 12 months, the base period is the hospital's most recent 12-month or longer cost reporting period ending before the short period report.

(ii) If the hospital does not have a cost reporting period ending on or after September 30, 1996 and before September 30, 1997, and does have a cost reporting period beginning on or after October 1, 1995 and before October 1, 1996, that cost reporting period is the base period unless the cost reporting period is for less than 12 months. If that cost reporting period is for less than 12 months, the base period is the hospital's most recent 12-month or longer cost reporting period ending before the short cost reporting period. If a hospital has no cost reporting period beginning in fiscal year 1996, the hospital will not have a hospital-specific rate based on fiscal year 1996.

(c) *Costs on a per discharge basis.* The intermediary determines the hospital's average base-period operating cost per discharge by dividing the total operating costs by the number of discharges in the base period. For purposes of this section, a transfer as defined in § 412.4(b) is considered to be a discharge.

(d) *Case-mix adjustment.* The intermediary divides the average base-period cost per discharge by the hospital's case-mix index for the base period.

(e) *Updating base-period costs.* For purposes of determining the updated base-period costs for cost reporting periods beginning in Federal fiscal year 1996, the update factor is determined using the methodology set forth in § 412.73(c)(12) through (c)(15).

(f) *DRG adjustment.* The applicable hospital-specific cost per discharge is multiplied by the appropriate DRG weighting factor to determine the hospital-specific base payment amount (target amount) for a particular covered discharge.

(g) *Phase-in of fiscal year 1996 base-period rate.* The intermediary calculates the hospital-specific rates determined on the basis of the fiscal year 1996 base period rate as follows:

(1) For Federal fiscal year 2001, the hospital-specific rate is the sum of 75 percent of the hospital-specific rate for fiscal year 1982 or fiscal year 1987 (the § 412.73 or § 412.75 target amount), plus 25 percent of the hospital-specific rate for fiscal year 1996 (the § 412.77 target amount).

(2) For Federal fiscal year 2002, the hospital-specific rate is the sum of 50 percent of the § 412.73 or § 412.75 target amount and 50 percent of the § 412.77 target amount.

(3) For Federal fiscal year 2003, the hospital-specific rate is the sum of 25 percent of the § 412.73 or § 412.75 target amount and 75 percent of the § 412.77 target amount.

(4) For Federal fiscal year 2004 and any subsequent fiscal years, the hospital-specific rate is 100 percent of the § 412.77 target amount.

(h) *Notice of hospital-specific rates.* The intermediary furnishes a hospital eligible for rebasing a notice of the hospital-specific rate as computed in accordance with this section. The notice will contain a statement of the hospital's Medicare Part A allowable inpatient operating costs, the number of Medicare discharges, and the case-mix index adjustment factor used to determine the hospital's cost per discharge for the Federal fiscal year 1996 base period.

(i) *Right to administrative and judicial review.* An intermediary's determination of the hospital-specific rate for a hospital is subject to administrative and judicial review. Review is available to a hospital upon receipt of the notice of the hospital-specific rate. This notice is treated as a final intermediary determination of the amount of program reimbursement for purposes of subpart R of part 405 of this chapter.

(j) *Modification of hospital-specific rate.* (1) The intermediary recalculates the hospital-specific rate to reflect the following:

(i) Any modifications that are determined as a result of administrative or judicial review of the hospital-specific rate determinations; or

(ii) Any additional costs that are recognized as allowable costs for the

hospital's base period as a result of administrative or judicial review of the base-period notice of amount of program reimbursement.

(2) With respect to either the hospital-specific rate determination or the amount of program reimbursement determination, the actions taken on administrative or judicial review that provide a basis for the recalculations of the hospital-specific rate include the following:

(i) A reopening and revision of the hospital's base-period notice of amount of program reimbursement under §§ 405.1885 through 405.1889 of this chapter.

(ii) A prehearing order or finding issued during the provider payment appeals process by the appropriate reviewing authority under § 405.1821 or § 405.1853 of this chapter that resolved a matter at issue in the hospital's base-period notice of amount of program reimbursement.

(iii) An affirmation, modification, or reversal of a Provider Reimbursement Review Board decision by the Administrator of HCFA under§ 405.1875 of this chapter that resolved a matter at issue in the hospital's base-period notice of amount of program reimbursement.

(iv) An administrative or judicial review decision under § 405.1831, § 405.1871, or § 405.1877 of this chapter that is final and no longer subject to review under applicable law or regulations by a higher reviewing authority, and that resolved a matter at issue in the hospital's base-period notice of amount of program reimbursement.

(v) A final, nonappealable court judgment relating to the base-period costs.

(3) The adjustments to the hospital-specific rate made under paragraphs (i)(1) and (i)(2) of this section are effective retroactively to the time of the intermediary's initial determination of the rate.

9. Section 412.92 is amended by revising paragraph (d)(1) to read as follows:

§ 412.92 Special treatment: sole community hospitals.

* * * * *

(d) *Determining prospective payment rates for inpatient operating costs for sole community hospitals.* (1) *General rules.* (i) Except as provided in paragraph (d)(1)(ii) of this section, for cost reporting periods beginning on or after April 1, 1990, a sole community hospital is paid based on whichever of the following amounts yields the greatest aggregate payment for the cost reporting period:

(A) The Federal payment rate applicable to the hospitals as determined under § 412.63.

(B) The hospital-specific rate as determined under § 412.73.

(C) The hospital-specific rate as determined under § 412.75.

(ii) For cost reporting periods beginning on or after October 1, 2000, a sole community hospital that was paid for its cost reporting period beginning during 1999 on the basis of the hospital-specific rate specified in paragraph (d)(1)(i)(B) or (d)(1)(i)(C) of this section, may elect to use the hospital-specific rate as determined under § 412.77.

* * * * *

10. Section 412.105 is amended by:

a. Revising paragraph (d)(3)(v);

b. Republishing paragraph (f)(1) introductory text and revising paragraph (f)(1)(vii);

c. Adding new paragraphs (f)(1)(viii) and (f)(1)(ix); and

d. Revising paragraph (g), to read as follows:

§ 412.105 Special treatment: Hospitals that incur indirect costs for graduate medical education programs.

* * * * *

(d) *Determination of education adjustment factor* * * *

(3) * * *

(v) For discharges occurring during fiscal year 2001, 1.54.

* * * * *

(f) *Determining the total number of full-time equivalent residents for cost reporting periods beginning on or after July 1, 1991.* (1) For cost reporting periods beginning on or after July 1, 1991, the count of full-time equivalent residents for the purpose of determining the indirect medical education adjustment is determined as follows:

* * * * *

(vii) If a hospital establishes a new medical residency training program, as defined in § 413.86(g)(9) of this subchapter, the hospital's full-time equivalent cap may be adjusted in accordance with the provisions of §§ 413.86(g)(6) (i) through (iv) of this subchapter.

(viii) A hospital that began construction of its facility prior to August 5, 1997, and sponsored new medical residency training programs on or after January 1, 1995 and on or before August 5, 1997, that either received initial accreditation by the appropriate accrediting body or temporarily trained residents at another hospital(s) until the facility was completed, may receive an adjustment to its full-time equivalent cap in accordance with the provisions of § 413.86(g)(7) of this subchapter.

(ix) A hospital may receive a temporary adjustment to its full-time equivalent cap to reflect residents added because of another hospital's closure if the hospital meets the criteria specified in § 413.86(g)(8) of this subchapter.

* * * * *

(g) *Indirect medical education payment for managed care enrollees.* For portions of cost reporting periods occurring on or after January 1, 1998, a payment is made to a hospital for indirect medical education costs, as determined under paragraph (e) of this section, for discharges associated with individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 of the Act or with a Medicare+Choice organization under title XVIII, Part C of the Act during the period, according to the applicable payment percentages described in §§ 413.86(d)(3)(i) through (d)(3)(v) of this subchapter.

11. In § 412.106, the introductory text of paragraph (e) is republished and paragraphs (e)(4) and (e)(5) are revised to read as follows:

§ 412.106 Special treatment: Hospitals that serve a disproportionate share of low-income patients.

* * * * *

(e) *Reduction in payment for FYs 1998 through 2002.* The amounts otherwise payable to a hospital under paragraph (d) of this section are reduced by the following:

* * * * *

(4) For FY 2001, 3 percent.

(5) For FY 2002, 4 percent.

* * * * *

12. Section 412.230 is amended by:

a. Republishing the introductory text of paragraph (e)(1); and

b. Revising paragraph (e)(1)(iii) and (e)(1)(iv)(A), to read as follows:

§ 412.230 Criteria for an individual hospital seeking redesignation to another rural area or an urban area.

* * * * *

(e) *Use of urban or other rural area's wage index—(1) Criteria for use of area's wage index.* Except as provided in paragraphs (e)(3) and (e)(4) of this section, to use an area's wage index, a hospital must demonstrate the following:

* * * * *

(iii) The hospital's average hourly wage is, in the case of a hospital located in a rural area, at least 106 percent, and, in the case of a hospital located in an urban area, at least 108 percent of the average hourly wage of hospitals in the

area in which the hospital is located; and

(iv) * * *

(A) The hospital's average hourly wage is equal to, in the case of a hospital located in a rural area, at least 82 percent, and in the case of a hospital located in an urban area, at least 84 percent of the average hourly wage of hospitals in the area to which it seeks redesignation.

* * * * *

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

B. Part 413 is amended as follows:

1. The authority citation for Part 413 is revised to read as follows:

Authority: Secs. 1102, 1812(d), 1814(b), 1815, 1833(a), (i), and (n), 1871, 1881, 1883, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395hh, 1395rr, 1395tt, and 1395ww).

2. In § 413.40, paragraph (a)(3) is amended by revising paragraph (B) in the definition of ''ceiling'' and paragraph (d)(4) is revised, to read as follows:

§ 413.40 Ceiling on the rate of increase in hospital inpatient costs.

(a) *Introduction.* * * *

(3) *Definitions.* * * *

Ceiling. * * *

(B) The hospital-within-a-hospital has discharged to the other hospital and subsequently readmitted more than 5 percent (that is, in excess of 5.0 percent) of the total number of Medicare inpatients discharged from the hospital-within-a-hospital in that cost reporting period.

* * * * *

(d) *Application of the target amount in determining the amount of payment.* * * *

(4) *Continuous improvement bonus payments.* (i) For cost reporting periods beginning on or after October 1, 1997 and ending before October 1, 2000, eligible hospitals (as defined in paragraph (d)(5) of this section) receive payments in addition to those in paragraph (d)(2) of this section, as applicable. These payments are equal to the lesser of—

(A) 50 percent of the amount by which the operating costs are less than the expected costs for the period; or

(B) 1 percent of the ceiling.

(ii) For cost reporting periods beginning on or after October 1, 2000, and ending before October 1, 2001, eligible psychiatric hospitals and units and long-term care hospitals (as defined in paragraph (d)(5) of this section) receive payments in addition to those in paragraph (d)(2) of this section, as applicable. These payments are equal to the lesser of—

(A) 50 percent of the amount by which the operating costs are less than the expected costs for the period; or

(B) 1.5 percent of the ceiling.

(iii) For cost reporting periods beginning on or after October 1, 2001, and ending before October 1, 2002, eligible psychiatric hospitals and units and long-term care hospitals receive payments in addition to those in paragraph (d)(5) of this section, as applicable. These payments are equal to the lesser of—

(A) 50 percent of the amount by which the operating costs are less than the expected costs for the periods; or

(B) 2 percent of the ceiling.

* * * * *

3. Section 413.70 is revised to read as follows:

§ 413.70 Payment for services of a CAH.

(a) *Payment for inpatient services furnished by a CAH.* (1) Payment for inpatient services of a CAH is the reasonable costs of the CAH in providing CAH services to its inpatients, as determined in accordance with section 1861(v)(1)(A) of the Act and the applicable principles of cost reimbursement in this part and in Part 415 of this chapter, except that the following payment principles are excluded when determining payment for CAH inpatient services:

(i) Lesser of cost or charges;

(ii) Ceilings on hospital operating costs; and

(iii) Reasonable compensation equivalent (RCE) limits for physician services to providers.

(2) Payment to a CAH for inpatient services does not include any costs of physician services or other professional services to CAH inpatients, and is subject to the Part A hospital deductible and coinsurance, as determined under subpart G of part 409 of this chapter.

(b) *Payment for outpatient services furnished by a CAH.* (1) *General.* Unless the CAH elects to be paid for services to its outpatients under the method specified in paragraph (b)(3) of this section, the amount of payment for outpatient services of a CAH is the amount determined under paragraph (b)(2) of this section.

(2) *Reasonable costs for facility services.* (i) Payment for outpatient services of a CAH is the reasonable costs of the CAH in providing CAH services to its outpatients, as determined in accordance with section 1861(v)(1)(A) of the Act and the applicable principles of cost reimbursement in this part and in Part 415 of this chapter, except that the following payment principles are excluded when determining payment for CAH outpatient services:

(A) Lesser of costs or charges;

(B) RCE limits;

(C) Any type of reduction to operating or capital costs under § 413.124 or § 413.130(j)(7); and

(D) Blended payment amounts for ambulatory surgical services, radiology services, and other diagnostic services;

(ii) Payment to a CAH under paragraph (b)(2) of this section does not include any costs of physician services or other professional services to CAH outpatients, and is subject to the Part B deductible and coinsurance amounts, as determined under §§ 410.152(k), 410.160, and 410.161 of this chapter.

(3) *Election to be paid reasonable costs for facility services plus fee schedule for professional services.* (i) A CAH may elect to be paid for outpatient services in any cost reporting period under the method described in paragraphs (b)(3)(ii) and (b)(3)(iii) of this section. This election must be made in writing, made on an annual basis, and delivered to the intermediary at least 60 days before the start of each affected cost reporting period. An election of this payment method, once made for a cost reporting period, remains in effect for all of that period and applies to all services furnished to outpatients during that period.

(ii) If the CAH elects payment under this method, payment to the CAH for each outpatient visit will be the sum of the following amounts:

(A) For facility services, not including any services for which payment may be made under paragraph (b)(3)(ii)(B) of this section, the reasonable costs of the services as determined under paragraph (b)(2)(i) of this section; and

(B) For professional services otherwise payable to the physician or other practitioner on a fee schedule basis, the amounts that otherwise would be paid for the services if the CAH had not elected payment under this method.

(iii) Payment to a CAH is subject to the Part B deductible and coinsurance amounts, as determined under §§ 410.152, 410.160, and 410.161 of this chapter.

(c) *Final payment based on cost report.* Final payment to the CAH for CAH facility services to inpatients and outpatients furnished during a cost reporting is based on a cost report for that period, as required under § 413.20(b).

4. Section 413.86 is amended by:

a. Revising the first sentence of paragraph (d)(3);

b. Revising the introductory text of paragraph (e)(3);

c. Redesignating paragraph (e)(4) as paragraph (e)(5);

d. Adding a new paragraph (e)(4);

e. Revising newly designated paragraph (e)(5)(i)(B); and

f. Adding a new paragraph (e)(5)(iv), to read as follows:

§ 413.86 Direct graduate medical education payments.

* * * * *

(d) *Calculating payment for graduate medical education costs.* * * *

(3) *Step Three.* For portions of cost reporting periods occurring on or after January 1, 1998, the product derived in step one is multiplied by the proportion of the hospital's inpatient days attributable to individuals who are enrolled under a risk-sharing contract with an eligible organization under section 1876 of the Act and who are entitled to Medicare Part A or with a Medicare+Choice organization under Title XVIII, Part C of the Act. * * *

* * * * *

(e) *Determining per resident amounts for the base period.* * * *

(3) *For cost reporting periods beginning on or after July 1, 1986.* Subject to the provisions of paragraph (e)(4) of this section, for cost reporting periods beginning on or after July 1, 1986, a hospital's base-period per resident amount is adjusted as follows:

* * * * *

(4) *For cost reporting periods beginning on or after October 1, 2000 and ending on or before September 30, 2005.* For cost reporting periods beginning on or after October 1, 2000 and ending on or before September 30, 2005, a hospital's per resident amount for each fiscal year is adjusted in accordance with the following provisions:

(i) *General provisions.* For purposes of § 413.86(e)(4)—

(A) *Weighted average per resident amount.* The weighted average per resident amount is established as follows:

(*1*) Using data from hospitals' cost reporting periods ending during FY 1997, HCFA calculates each hospital's single per resident amount by adding each hospital's primary care and non-primary care per resident amounts, weighted by its respective FTEs, and dividing by the sum of the FTEs for primary care and non-primary care residents.

(*2*) Each hospital's single per resident amount calculated under paragraph (e)(4)(i)(A)(*1*) of this section is standardized by the 1999 geographic adjustment factor for the physician fee schedule area (as determined under § 414.26 of this chapter) in which the hospital is located.

(*3*) HCFA calculates an average of all hospitals' standardized per resident amounts that are determined under paragraph (e)(4)(i)(A)(*2*) of this section. The resulting amount is the weighted average per resident amount.

(B) *Primary care/obstetrics and gynecology and non-primary care per resident amounts.* A hospital's per resident amount is an amount inclusive of any CPI–U adjustments that the hospital may have received since the hospital's base year, including any CPI–U adjustments the hospital may have received because the hospital trains primary care/obstetrics and gynecology residents and non-primary care residents as specified under paragraph (e)(3)(ii) of this section.

(ii) *Adjustment beginning in FY 2001 and ending in FY 2005.* For cost reporting periods beginning on or after October 1, 2000 and ending on or before September 30, 2005, a hospital's per resident amount is adjusted in accordance with paragraphs (e)(4)(ii)(A) through (e)(4)(ii)(C) of this section, in that order:

(A) *Updating the weighted average per resident amount for inflation.* The weighted average per resident amount (as determined under paragraph (e)(4)(i)(A) of this section) is updated by the estimated percentage increase in the CPI–U during the period beginning with the month that represents the midpoint of the cost reporting periods ending during FY 1997 (that is, October 1, 1996) and ending with the midpoint of the hospital's cost reporting period that begins in FY 2001.

(B) *Adjusting for locality.* The updated weighted average per resident amount determined under paragraph (e)(4)(ii)(A) of this section (the national average per resident amount) is adjusted for the locality of each hospital by multiplying the national average per resident amount by the 1999 geographic adjustment factor for the physician fee schedule area in which each hospital is located, established in accordance with § 414.26 of this subchapter.

(C) *Determining necessary revisions to the per resident amount.* The locality-adjusted national average per resident amount, as calculated in accordance with paragraph (e)(4)(ii)(B) of this section, is compared to the hospital's per resident amount. Each hospital's per resident amount is revised, if appropriate, according to the following three categories:

(*1*) *Floor.* For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2001, if the hospital's per resident amount would otherwise be less than 70 percent of the locality-adjusted national average per resident amount for FY 2001 (as determined under paragraph (e)(4)(ii)(B) of this section), the per resident amount is equal to 70 percent of the locality-adjusted national average per resident amount for FY 2001. For subsequent cost reporting periods, the hospital's per resident amount is updated using the methodology specified under paragraph (e)(3)(i) of this section.

(*2*) *Ceiling.* If the hospital's per resident amount is greater than 140 percent of the locality-adjusted national average per resident amount, the per resident amount is adjusted as follows for FY 2001 through FY 2005:

(*i*) *FY 2001.* For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2001, if the hospital's FY 2000 per resident amount exceeds 140 percent of the FY 2001 locality-adjusted national average per resident amount (as calculated under paragraph (e)(4)(ii)(B) of this section), then, subject to the provision stated in paragraph (e)(4)(ii)(C)(*2*)(*iv*) of this section, the hospital's per resident amount is frozen at the FY 2000 per resident amount and is not updated for FY 2001 by the CPI–U factor.

(*ii*) *FY 2002.* For cost reporting periods beginning on or after October 1, 2001 and on or before September 30, 2002, if the hospital's FY 2001 per resident amount exceeds 140 percent of the FY 2002 locality-adjusted national average per resident amount, then, subject to the provision stated in paragraph (e)(4)(ii)(C)(*2*)(*iv*) of this section, the hospital's per resident amount is frozen at the FY 2001 per resident amount and is not updated for FY 2002 by the CPI–U factor.

(*iii*) *FY 2003 through FY 2005.* For cost reporting periods beginning on or after October 1, 2002 and on or before September 30, 2005, if the hospital's per resident amount for the previous cost reporting period is greater than 140 percent of the locality-adjusted national average per resident amount for that same previous cost reporting period (for example, for cost reporting periods beginning in FY 2003, compare the hospital's per resident amount from the FY 2002 cost report to the hospital's locality-adjusted national average per resident amount from FY 2002), then, subject to the provision stated in paragraph (e)(4)(ii)(C)(*2*)(*iv*) of this section, the hospital's per resident amount is adjusted using the methodology specified in paragraph

(e)(3)(i) of this section, except that the CPI–U applied for a 12-month period is reduced (but not below zero) by 2 percentage points.

(*iv*) *General rule for hospitals that exceed the ceiling.* For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005, if a hospital's per resident amount exceeds 140 percent of the hospital's locality-adjusted national average per resident amount and it is adjusted under any of the criteria under paragraphs (e)(4)(ii)(C)(*2*)(*i*) through (*iii*) of this section, the current year per resident amount resident amount cannot be reduced below 140 percent of the locality-adjusted national average per resident amount.

(*3*) *Per resident amounts greater than or equal to the floor and less than or equal to the ceiling.* For cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005, if a hospital's per resident amount is greater than or equal to 70 percent and less than or equal to 140 percent of the hospital's locality-adjusted national average per resident amount for each respective fiscal year, the hospital's per resident amount is updated using the methodology specified in paragraph (e)(3)(i) of this section.

(5) *Exceptions*—(i) *Base period for certain hospitals.* * * *

(B) The weighted mean value of per resident amounts of hospitals located in the same geographic wage area, as that term is used in the prospective payment system under part 412 of this chapter, for cost reporting periods beginning in the same fiscal years. If there are fewer than three amounts that can be used to calculate the weighted mean value, the calculation of the per resident amounts includes all hospitals in the hospital's region as that term is used in § 412.62(f)(1)(i) of this chapter.

* * * * *

(iv) Effective October 1, 2000, the per resident amounts established under paragraphs (e)(5)(i) through (iii) of this section are subject to the provisions of paragraph (e)(4) of this section.

* * * * *

PART 485B—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

C. Part 485 is amended as follows:

1. The authority citation for part 485 continues to read as follows:

Authority: Sec. 1820 of the Act (42 U.S.C. 1395i–4), unless otherwise noted.

2. A new § 485.643 is added to subpart F to read as follows:

§ 485.643 Condition of participation: Organ, tissue, and eye procurement.

The CAH must have and implement written protocols that:

(a) Incorporate an agreement with an OPO designated under part 486 of this chapter, under which it must notify, in a timely manner, the OPO or a third party designated by the OPO of individuals whose death is imminent or who have died in the CAH. The OPO determines medical suitability for organ donation and, in the absence of alternative arrangements by the CAH, the OPO determines medical suitability for tissue and eye donation, using the definition of potential tissue and eye donor and the notification protocol developed in consultation with the tissue and eye banks identified by the CAH for this purpose;

(b) Incorporate an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage and distribution of tissues and eyes, as may be appropriate to assure that all usable tissues and eyes are obtained from potential donors, insofar as such an agreement does not interfere with organ procurement;

(c) Ensure, in collaboration with the designated OPO, that the family of each potential donor is informed of its option to either donate or not donate organs, tissues, or eyes. The individual designated by the CAH to initiate the request to the family must be a designated requestor. A designated requestor is an individual who has completed a course offered or approved by the OPO and designed in conjunction with the tissue and eye bank community in the methodology for approaching potential donor families and requesting organ or tissue donation;

(d) Encourage discretion and sensitivity with respect to the circumstances, views, and beliefs of the families of potential donors;

(e) Ensure that the CAH works cooperatively with the designated OPO, tissue bank and eye bank in educating staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes take place.

(f) For purposes of these standards, the term ''Organ'' means a human kidney, liver, heart, lung, or pancreas.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: April 14, 2000.

Nancy Ann Min DeParle,

Administrator, Health Care Financing Administration

Dated: April 28, 2000.

Donna E. Shalala,

Secretary.

[Editorial Note: The following Addendum and appendixes will not appear in the Code of Federal Regulations.]

Addendum—Proposed Schedule of Standardized Amounts Effective With Discharges Occurring On or After October 1, 2000 and Update Factors and Rate-of-Increase Percentages Effective With Cost Reporting Periods Beginning On or After October 1, 2000

I. Summary and Background

In this Addendum, we are setting forth the proposed amounts and factors for determining prospective payment rates for Medicare inpatient operating costs and Medicare inpatient capital-related costs. We are also setting forth proposed rate-of-increase percentages for updating the target amounts for hospitals and hospital units excluded from the prospective payment system.

For discharges occurring on or after October 1, 2000, except for sole community hospitals, Medicare-dependent, small rural hospitals, and hospitals located in Puerto Rico, each hospital's payment per discharge under the prospective payment system will be based on 100 percent of the Federal national rate.

Sole community hospitals are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal national rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if qualified, 25 percent of the updated hospital-specific rate based on FY 1996 cost per discharge, plus 75 percent of the updated FY 1982 or FY 1987 hospital-specific rate. Section 405 of Public Law 106–113 amended section 1886(b)(3) of the Act to allow a sole community hospital that was paid for its cost reporting period beginning during FY 1999 on the basis of either its FY 1982 or FY 1987 hospital-specific rate to elect to rebase its hospital-specific rate based on its FY 1996 cost per discharge.

Section 404 of Public Law 106–113 amended section 1886(d)(5)(G) of the Act to extend the special treatment for Medicare-dependent, small rural hospitals. Therefore, Medicare-dependent, small rural hospitals are paid based on the Federal national rate or, if higher, the Federal national rate plus 50 percent of the difference

between the Federal national rate and the updated hospital-specific rate based on FY 1982 or FY 1987 cost per discharge, whichever is higher.

For hospitals in Puerto Rico, the payment per discharge is based on the sum of 50 percent of a Puerto Rico rate and 50 percent of a Federal national rate.

As discussed below in section II of this Addendum, we are proposing to make changes in the determination of the prospective payment rates for Medicare inpatient operating costs for FY 2001. The changes, to be applied prospectively, would affect the calculation of the Federal rates. In section III of this Addendum, we discuss updates to the payments per unit for blood clotting factor provided to hospital inpatients who have hemophilia. In section IV of this Addendum, we discuss our proposed changes for determining the prospective payment rates for Medicare inpatient capital-related costs for FY 2001. Section V of this Addendum sets forth our proposed changes for determining the rate-of-increase limits for hospitals excluded from the prospective payment system for FY 2001. The tables to which we refer in the preamble to this proposed rule are presented at the end of this Addendum in section VI.

II. Proposed Changes to Prospective Payment Rates for Inpatient Operating Costs for FY 2001

The basic methodology for determining prospective payment rates for inpatient operating costs is set forth at § 412.63 for hospitals located outside of Puerto Rico. The basic methodology for determining the prospective payment rates for inpatient operating costs for hospitals located in Puerto Rico is set forth at §§ 412.210 and 412.212. Below, we discuss the proposed factors used for determining the prospective payment rates. The Federal and Puerto Rico rate changes, once issued as final, will be effective with discharges occurring on or after October 1, 2000. As required by section 1886(d)(4)(C) of the Act, we must also adjust the DRG classifications and weighting factors for discharges in FY 2001.

In summary, the proposed standardized amounts set forth in Tables 1A and 1C of section VI of this Addendum reflect—

- Updates of 2.0 percent for all areas (that is, the market basket percentage increase of 3.1 percent minus 1.1 percentage points);
- An adjustment to ensure budget neutrality as provided for in sections 1886(d)(4)(C)(iii) and (d)(3)(E) of the Act by applying new budget neutrality adjustment factors to the large urban and other standardized amounts;
- An adjustment to ensure budget neutrality as provided for in section 1886(d)(8)(D) of the Act by removing the FY 2000 budget neutrality factor and applying a revised factor;
- An adjustment to apply the revised outlier offset by removing the FY 2000 outlier offsets and applying a new offset; and
- An adjustment in the Puerto Rico standardized amounts to reflect the application of a Puerto Rico-specific wage index.

The standardized amounts set forth in table 1E of section VI of this Addendum, which apply to sole community hospitals, reflect updates of 3.1 percent (that is, the full market basket percentage increase) as provided for in section 406 of Public Law 106–113, but otherwise reflect the same adjustments as the national standardized amounts.

A. Calculation of Adjusted Standardized Amounts

1. Standardization of Base-Year Costs or Target Amounts

Section 1886(d)(2)(A) of the Act required the establishment of base-year cost data containing allowable operating costs per discharge of inpatient hospital services for each hospital. The preamble to the September 1, 1983 interim final rule (48 FR 39763) contains a detailed explanation of how base-year cost data were established in the initial development of standardized amounts for the prospective payment system and how they are used in computing the Federal rates.

Section 1886(d)(9)(B)(i) of the Act required us to determine the Medicare target amounts for each hospital located in Puerto Rico for its cost reporting period beginning in FY 1987. The September 1, 1987 final rule (52 FR 33043, 33066) contains a detailed explanation of how the target amounts were determined and how they are used in computing the Puerto Rico rates.

The standardized amounts are based on per discharge averages of adjusted hospital costs from a base period or, for Puerto Rico, adjusted target amounts from a base period, updated and otherwise adjusted in accordance with the provisions of section 1886(d) of the Act. Sections 1886(d)(2)(B) and (d)(2)(C) of the Act required us to update base-year per discharge costs for FY 1984 and then standardize the cost data in order to remove the effects of certain sources of cost variations among hospitals. These effects include case-mix, differences in area wage levels, cost-of-living adjustments for Alaska and Hawaii, indirect medical education costs, and payments to hospitals serving a disproportionate share of low-income patients.

Under sections 1886(d)(2)(H) and (d)(3)(E) of the Act, in making payments under the prospective payment system, the Secretary estimates from time to time the proportion of costs that are wages and wage-related costs. Since October 1, 1997, when the market basket was last revised, we have considered 71.1 percent of costs to be labor-related for purposes of the prospective payment system. The average labor share in Puerto Rico is 71.3 percent. We are proposing to revise the discharge-weighted national standardized amount for Puerto Rico to reflect the proportion of discharges in large urban and other areas from the FY 1999 MedPAR file.

2. Computing Large Urban and Other Area Averages

Sections 1886(d)(2)(D) and (d)(3) of the Act require the Secretary to compute two average standardized amounts for discharges occurring in a fiscal year: one for hospitals located in large urban areas and one for hospitals located in other areas. In addition, under sections 1886(d)(9)(B)(iii) and (d)(9)(C)(i) of the Act, the average standardized amount per discharge must be determined for hospitals located in urban and other areas in Puerto Rico. Hospitals in Puerto Rico are paid a blend of 50 percent of the applicable Puerto Rico standardized amount and 50 percent of a national standardized payment amount.

Section 1886(d)(2)(D) of the Act defines ''urban area'' as those areas within a Metropolitan Statistical Area (MSA). A ''large urban area'' is defined as an urban area with a population of more than 1 million. In addition, section 4009(i) of Public Law 100–203 provides that a New England County Metropolitan Area (NECMA) with a population of more than 970,000 is classified as a large urban area. As required by section 1886(d)(2)(D) of the Act, population size is determined by the Secretary based on the latest population data published by the Bureau of the Census. Urban areas that do not meet the definition of a ''large urban area'' are referred to as ''other urban areas.'' Areas that are not included in MSAs are considered ''rural areas'' under section 1886(d)(2)(D) of the Act. Payment for discharges from hospitals located in large urban areas will be based on the large urban standardized amount. Payment for discharges from hospitals located in other urban and rural areas will be

based on the other standardized amount.

Based on 1997 population estimates published by the Bureau of the Census, 61 areas meet the criteria to be defined as large urban areas for FY 2001. These areas are identified by a footnote in Table 4A.

3. Updating the Average Standardized Amounts

Under section 1886(d)(3)(A) of the Act, we update the area average standardized amounts each year. In accordance with section 1886(d)(3)(A)(iv) of the Act, we are proposing to update the large urban areas' and the other areas' average standardized amounts for FY 2001 using the applicable percentage increases specified in section 1886(b)(3)(B)(i) of the Act. Section 1886(b)(3)(B)(i)(XVI) of the Act specifies that the update factor for the standardized amounts for FY 2001 is equal to the market basket percentage increase minus 1.1 percentage points for hospitals, except sole community hospitals, in all areas. The Act, as amended by section 406 of Public Law 106–113, specifies an update factor equal to the market basket percentage increase for sole community hospitals.

The percentage change in the market basket reflects the average change in the price of goods and services purchased by hospitals to furnish inpatient care. The most recent forecast of the hospital market basket increase for FY 2001 is 3.1 percent. Thus, for FY 2001, the proposed update to the average standardized amounts equals 3.1 percent for sole community hospitals and 2.0 percent for other hospitals.

As in the past, we are adjusting the FY 2000 standardized amounts to remove the effects of the FY 2000 geographic reclassifications and outlier payments before applying the FY 2001 updates. That is, we are increasing the standardized amounts to restore the reductions that were made for the effects of geographic reclassification and outliers. We then apply the new offsets to the standardized amounts for outliers and geographic reclassifications for FY 2001.

Although the update factors for FY 2001 are set by law, we are required by section 1886(e)(3) of the Act to report to the Congress our initial recommendation of update factors for FY 2001 for both prospective payment hospitals and hospitals excluded from the prospective payment system. For general information purposes, we have included the report to Congress as Appendix C to this proposed rule. Our proposed recommendation on the update factors (which is required by sections 1886(e)(4)(A) and (e)(5)(A) of the Act) is set forth as Appendix D to this proposed rule.

4. Other Adjustments to the Average Standardized Amounts

a. Recalibration of DRG Weights and Updated Wage Index—Budget Neutrality Adjustment

Section 1886(d)(4)(C)(iii) of the Act specifies that, beginning in FY 1991, the annual DRG reclassification and recalibration of the relative weights must be made in a manner that ensures that aggregate payments to hospitals are not affected. As discussed in section II of the preamble, we normalized the recalibrated DRG weights by an adjustment factor, so that the average case weight after recalibration is equal to the average case weight prior to recalibration.

Section 1886(d)(3)(E) of the Act requires us to update the hospital wage index on an annual basis beginning October 1, 1993. This provision also requires us to make any updates or adjustments to the wage index in a manner that ensures that aggregate payments to hospitals are not affected by the change in the wage index.

To comply with the requirement of section 1886(d)(4)(C)(iii) of the Act that DRG reclassification and recalibration of the relative weights be budget neutral, and the requirement in section 1886(d)(3)(E) of the Act that the updated wage index be budget neutral, we used historical discharge data to simulate payments and compared aggregate payments using the FY 2000 relative weights and wage index to aggregate payments using the proposed FY 2001 relative weights and wage index. The same methodology was used for the FY 2000 budget neutrality adjustment. (See the discussion in the September 1, 1992 final rule (57 FR 39832).) Based on this comparison, we computed a budget neutrality adjustment factor equal to 0.996506. We also adjust the Puerto Rico-specific standardized amounts for the effect of DRG reclassification and recalibration. We computed a budget neutrality adjustment factor for Puerto Rico-specific standardized amounts equal to 0.999753. These budget neutrality adjustment factors are applied to the standardized amounts without removing the effects of the FY 2000 budget neutrality adjustments. We do not remove the prior budget neutrality adjustment because estimated aggregate payments after the changes in the DRG relative weights and wage index should equal estimated aggregate payments prior to the changes. If we removed the prior year adjustment, we would not satisfy this condition.

In addition, we are proposing to apply these same adjustment factors to the hospital-specific rates that are effective for cost reporting periods beginning on or after October 1, 2000. (See the discussion in the September 4, 1990 final rule (55 FR 36073).)

b. Reclassified Hospitals—Budget Neutrality Adjustment

Section 1886(d)(8)(B) of the Act provides that, effective with discharges occurring on or after October 1, 1988, certain rural hospitals are deemed urban. In addition, section 1886(d)(10) of the Act provides for the reclassification of hospitals based on determinations by the Medicare Geographic Classification Review Board (MGCRB). Under section 1886(d)(10) of the Act, a hospital may be reclassified for purposes of the standardized amount or the wage index, or both.

Under section 1886(d)(8)(D) of the Act, the Secretary is required to adjust the standardized amounts so as to ensure that aggregate payments under the prospective payment system after implementation of the provisions of sections 1886(d)(8)(B) and (C) and 1886(d)(10) of the Act are equal to the aggregate prospective payments that would have been made absent these provisions. Section 152(b) of Public Law 106–113 requires reclassifications under that subsection to be treated as reclassifications under section 1886(d)(10) of the Act. To calculate this budget neutrality factor, we used historical discharge data to simulate payments, and compared total prospective payments (including IME and DSH payments) prior to any reclassifications to total prospective payments after reclassifications. Based on these simulations, we are applying an adjustment factor of 0.994270 to ensure that the effects of reclassification are budget neutral.

The adjustment factor is applied to the standardized amounts after removing the effects of the FY 2000 budget neutrality adjustment factor. We note that the proposed FY 2001 adjustment reflects wage index and standardized amount reclassifications approved by the MGCRB or the Administrator as of February 29, 2000. The effects of any additional reclassification changes resulting from appeals and reviews of the MGCRB decisions for FY 2001 or from a hospital's request for the withdrawal of a reclassification request will be reflected in the final budget neutrality adjustment published in the final rule for FY 2001.

c. Outliers

Section 1886(d)(5)(A) of the Act provides for payments in addition to the basic prospective payments for ''outlier'' cases, cases involving extraordinarily high costs (cost outliers). Section 1886(d)(3)(B) of the Act requires the Secretary to adjust both the large urban and other area national standardized amounts by the same factor to account for the estimated proportion of total DRG payments made to outlier cases. Similarly, section 1886(d)(9)(B)(iv) of the Act requires the Secretary to adjust the large urban and other standardized amounts applicable to hospitals in Puerto Rico to account for the estimated proportion of total DRG payments made to outlier cases. Furthermore, under section 1886(d)(5)(A)(iv) of the Act, outlier payments for any year must be projected to be not less than 5 percent nor more than 6 percent of total payments based on DRG prospective payment rates.

i. FY 2001 outlier thresholds. For FY 2000, the fixed loss cost outlier threshold was equal to the prospective payment for the DRG plus $14,050 ($12,827 for hospitals that have not yet entered the prospective payment system for capital-related costs). The marginal cost factor for cost outliers (the percent of costs paid after costs for the case exceed the threshold) was 80 percent. We applied an outlier adjustment to the FY 2000 standardized amounts of 0.948859 for the large urban and other areas rates and 0.9402 for the capital Federal rate.

For FY 2001, we propose to establish a fixed loss cost outlier threshold equal to the prospective payment rate for the DRG plus the IME and DSH payments plus $17,250 ($15,763 for hospitals that have not yet entered the prospective payment system for capital-related costs). In addition, we propose to maintain the marginal cost factor for cost outliers at 80 percent.

To calculate FY 2001 outlier thresholds, we simulated payments by applying FY 2001 rates and policies to the December 1999 update of the FY 1999 MedPAR file and the December 1999 update of the provider-specific file. As we have explained in the past, to calculate outlier thresholds, we apply a cost inflation factor to update costs for the cases used to simulate payments. For FY 1999, we used a cost inflation factor of minus 1.724 percent. For FY 2000, we used a cost inflation factor (or cost adjustment factor) of zero percent. To set the proposed FY 2001 outlier thresholds, we are using a cost inflation factor of 1.0 percent. This factor reflects our analysis of the best available cost report data as well as calculations (using the best available data) indicating that the percentage of actual outlier payments for FY 1999 is higher than we projected before the beginning of FY 1999, and that the percentage of actual outlier payments for FY 2000 will likely be higher than we projected before the beginning of FY 2000. The calculations of ''actual'' outlier payments are discussed further below.

ii. Other changes concerning outliers. In accordance with section 1886(d)(5)(A)(iv) of the Act, we calculated proposed outlier thresholds so that outlier payments are projected to equal 5.1 percent of total payments based on DRG prospective payment rates. In accordance with section 1886(d)(3)(E), we reduced the proposed FY 2001 standardized amounts by the same percentage to account for the projected proportion of payments paid to outliers.

As stated in the September 1, 1993 final rule (58 FR 46348), we establish outlier thresholds that are applicable to both inpatient operating costs and inpatient capital-related costs. When we modeled the combined operating and capital outlier payments, we found that using a common set of thresholds resulted in a higher percentage of outlier payments for capital-related costs than for operating costs. We project that the proposed thresholds for FY 2001 will result in outlier payments equal to 5.1 percent of operating DRG payments and 5.8 percent of capital payments based on the Federal rate.

The proposed outlier adjustment factors to be applied to the standardized amounts for FY 2001 are as follows:

	Operating standardized amounts	Capital federal rate
National	0.948865	0.9416
Puerto Rico ...	0.975408	0.9709

We apply the proposed outlier adjustment factors after removing the effects of the FY 2000 outlier adjustment factors on the standardized amounts.

Table 8A in section VI of this Addendum contains the updated Statewide average operating cost-to-charge ratios for urban hospitals and for rural hospitals to be used in calculating cost outlier payments for those hospitals for which the fiscal intermediary is unable to compute a reasonable hospital-specific cost-to-charge ratio. These Statewide average ratios would replace the ratios published in the July 30, 1999 final rule (64 FR 41620). Table 8B contains comparable Statewide average capital cost-to-charge ratios. These average ratios would be used to calculate cost outlier payments for those hospitals for which the fiscal intermediary computes operating cost-to-charge ratios lower than 0.201132 or greater than 1.308495 and capital cost-to-charge ratios lower than 0.01266 or greater than 0.16901. This range represents 3.0 standard deviations (plus or minus) from the mean of the log distribution of cost-to-charge ratios for all hospitals. We note that the cost-to-charge ratios in Tables 8A and 8B would be used during FY 2001 when hospital-specific cost-to-charge ratios based on the latest settled cost report are either not available or outside the three standard deviations range.

iii. FY 1999 and FY 2000 outlier payments. In the July 30, 1999 final rule (64 FR 41547), we stated that, based on available data, we estimated that actual FY 1999 outlier payments would be approximately 6.3 percent of actual total DRG payments. This was computed by simulating payments using the March 1998 bill data available at the time. That is, the estimate of actual outlier payments did not reflect actual FY 1999 bills but instead reflected the application of FY 1999 rates and policies to available FY 1998 bills. Our current estimate, using available FY 1999 bills, is that actual outlier payments for FY 1999 were approximately 7.5 percent of actual total DRG payments. We note that the MedPAR file for FY 1999 discharges continues to be updated. Thus, the data indicate that, for FY 1999, the percentage of actual outlier payments relative to actual total payments is higher than we projected before FY 1999 (and thus exceeds the percentage by which we reduced the standardized amounts for FY 1999). In fact, the data indicate that the proportion of actual outlier payments for FY 1999 exceeds 6 percent. Nevertheless, consistent with the policy and statutory interpretation we have maintained since the inception of the prospective payment system, we do not plan to recoup money and make retroactive adjustments to outlier payments for FY 1999.

We currently estimate that actual outlier payments for FY 2000 will be approximately 6.1 percent of actual total DRG payments, higher than the 5.1 percent we projected in setting outlier policies for FY 2000. This estimate is based on simulations using the December 1999 update of the provider-specific file and the December 1999 update of the FY 1999 MedPAR file (discharge data for FY 1999 bills). We used these data to calculate an estimate of the actual outlier percentage for FY 2000 by applying FY 2000 rates and policies to available FY 1999 bills.

5. FY 2001 Standardized Amounts

The adjusted standardized amounts are divided into labor and nonlabor portions. Table 1A (Table 1E for sole community hospitals) contains the two national standardized amounts that we are proposing to be applicable to all hospitals, except hospitals in Puerto Rico. Under section 1886(d)(9)(A)(ii) of the Act, the Federal portion of the Puerto Rico payment rate is based on the discharge-weighted average of the national large urban standardized amount and the national other standardized amount (as set forth in Table 1A). The labor and nonlabor portions of the national average standardized amounts for Puerto Rico hospitals are set forth in Table 1C. This table also includes the Puerto Rico standardized amounts.

B. Adjustments for Area Wage Levels and Cost of Living

Tables 1A, 1C and 1E, as set forth in this Addendum, contain the proposed labor-related and nonlabor-related shares that would be used to calculate the prospective payment rates for hospitals located in the 50 States, the District of Columbia, and Puerto Rico. This section addresses two types of adjustments to the standardized amounts that are made in determining the prospective payment rates as described in this Addendum.

1. Adjustment for Area Wage Levels

Sections 1886(d)(3)(E) and 1886(d)(9)(C)(iv) of the Act require that we make an adjustment to the labor-related portion of the prospective payment rates to account for area differences in hospital wage levels. This adjustment is made by multiplying the labor-related portion of the adjusted standardized amounts by the appropriate wage index for the area in which the hospital is located. In section III of this preamble, we discuss the data and methodology for the proposed FY 2001 wage index. The proposed wage index is set forth in Tables 4A through 4F of this Addendum.

2. Adjustment for Cost-of-Living in Alaska and Hawaii

Section 1886(d)(5)(H) of the Act authorizes an adjustment to take into account the unique circumstances of hospitals in Alaska and Hawaii. Higher labor-related costs for these two States are taken into account in the adjustment for area wages described above. For FY 2001, we propose to adjust the payments for hospitals in Alaska and Hawaii by multiplying the nonlabor portion of the standardized amounts by the appropriate adjustment factor contained in the table below. If the Office of Personnel Management releases revised cost-of-living adjustment factors before July 1, 2000, we will publish them in the final rule and use them in determining FY 2001 payments.

TABLE OF COST-OF-LIVING ADJUSTMENT FACTORS, ALASKA AND HAWAII HOSPITALS

Alaska—All areas	1.25
Hawaii:	
County of Honolulu	1.25
County of Hawaii	1.15
County of Kauai	1.225
County of Maui	1.225
County of Kalawao	1.225

(The above factors are based on data obtained from the U.S. Office of Personnel Management.)

C. DRG Relative Weights

As discussed in section II of the preamble, we have developed a classification system for all hospital discharges, assigning them into DRGs, and have developed relative weights for each DRG that reflect the resource utilization of cases in each DRG relative to Medicare cases in other DRGs. Table 5 of section VI of this Addendum contains the relative weights that we are proposing to use for discharges occurring in FY 2001. These factors have been recalibrated as explained in section II of the preamble.

D. Calculation of Prospective Payment Rates for FY 2001

General Formula for Calculation of Prospective Payment Rates for FY 2001

Prospective payment rate for all hospitals located outside of Puerto Rico except sole community hospitals and Medicare-dependent, small rural hospitals = Federal rate.

Prospective payment rate for sole community hospitals = Whichever of the following rates yields the greatest aggregate payment: the Federal national rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if the sole community hospital was paid for its cost reporting period beginning during FY 1999 on the basis of either its FY 1982 or FY 1987 hospital-specific rate and elects rebasing, 25 percent of its updated hospital-specific rate based on FY 1996 cost per discharge plus 75 percent of its updated FY 1982 or FY 1987 hospital-specific rate.

Prospective payment rate for Medicare-dependent, small rural hospitals = 100 percent of the Federal rate, or, if the greater of the updated FY 1982 hospital-specific rate or the updated FY 1987 hospital-specific rate is higher than the Federal rate, 100 percent of the Federal rate plus 50 percent of the difference between the applicable hospital-specific rate and the Federal rate.

Prospective payment rate for Puerto Rico = 50 percent of the Puerto Rico rate + 50 percent of a discharge-weighted average of the national large urban standardized amount and the Federal national other standardized amount.

1. Federal Rate

For discharges occurring on or after October 1, 2000 and before October 1, 2001, except for sole community hospitals, Medicare-dependent, small rural hospitals and hospitals in Puerto Rico, the hospital's payment is based exclusively on the Federal national rate.

The payment amount is determined as follows:

Step 1—Select the appropriate national standardized amount considering the type of hospital and designation of the hospital as large urban or other (see Table 1A or 1E in section VI of this Addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the applicable wage index for the geographic area in which the hospital is located (see Tables 4A, 4B, and 4C of section VI of this Addendum).

Step 3—For hospitals in Alaska and Hawaii, multiply the nonlabor-related portion of the standardized amount by the appropriate cost-of-living adjustment factor.

Step 4—Add the amount from Step 2 and the nonlabor-related portion of the standardized amount (adjusted, if appropriate, under Step 3).

Step 5—Multiply the final amount from Step 4 by the relative weight corresponding to the appropriate DRG (see Table 5 of section VI of this Addendum).

2. Hospital-Specific Rate (Applicable Only to Sole Community Hospitals and Medicare-Dependent, Small Rural Hospitals)

Section 1886(b)(3)(C) of the Act, as amended by section 405 of Public Law 106–113, provides that sole community hospitals are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal national rate, the updated hospital-specific rate based on FY 1982 cost per discharge, the updated hospital-specific rate based on FY 1987 cost per discharge, or, if the sole community hospital was paid for its cost reporting period beginning during FY 1999 on the basis of either its FY 1982 or FY 1987 hospital-specific

rate and elects rebasing, 25 percent of its updated hospital-specific rate based on FY 1996 cost per discharge plus 75 percent of the updated FY 1982 or FY 1987 hospital-specific rate.

Section 1886(d)(5)(G) of the Act, as amended by section 404 of Public Law 106–113, provides that Medicare-dependent, small rural hospitals are paid based on whichever of the following rates yields the greatest aggregate payment: the Federal rate or the Federal rate plus 50 percent of the difference between the Federal rate and the greater of the updated hospital-specific rate based on FY 1982 and FY 1987 cost per discharge.

Hospital-specific rates have been determined for each of these hospitals based on either the FY 1982 cost per discharge, the FY 1987 cost per discharge or, for qualifying sole community hospitals, the FY 1996 cost per discharge. For a more detailed discussion of the calculation of the hospital-specific rates, we refer the reader to the September 1, 1983 interim final rule (48 FR 39772); the April 20, 1990 final rule with comment (55 FR 15150); and the September 4, 1990 final rule (55 FR 35994).

a. Updating the FY 1982 and FY 1987 Hospital-Specific Rates for FY 2001

We are proposing to increase the hospital-specific rates by 3.1 percent (the hospital market basket rate of increase) for sole community hospitals and by 2.0 percent (the hospital market basket percentage increase minus 1.1 percentage points) for Medicare-dependent, small rural hospitals for FY 2001. Section 1886(b)(3)(C)(iv) of the Act provides that the update factor applicable to the hospital-specific rates for sole community hospitals equal the update factor provided under section 1886(b)(3)(B)(iv) of the Act, which, for sole community hospitals in FY 2001, is the market basket rate of increase. Section 1886(b)(3)(D) of the Act provides that the update factor applicable to the hospital-specific rates for Medicare-dependent, small rural hospitals equal the update factor provided under section 1886(b)(3)(B)(iv) of the Act, which, for FY 2001, is the market basket rate of increase minus 1.1 percentage points.

b. Calculation of Hospital-Specific Rate

For sole community hospitals, the applicable FY 2001 hospital-specific rate would be the greater of the following: the hospital-specific rate for the preceding fiscal year, increased by the applicable update factor (3.1 percent); or, if the hospital qualifies to rebase its hospital-specific rate based on cost per case in FY 1996 and elects rebasing, 75 percent of the hospital-specific rate for the preceding fiscal year, increased by the applicable update factor, plus 25 percent of its rebased FY 1996 hospital-specific rate updated through FY 2001. For Medicare-dependent, small rural hospitals, the applicable FY 2001 hospital-specific rate would be calculated by increasing the hospital's hospital-specific rate for the preceding fiscal year by the applicable update factor (2.0 percent), which is the same as the update for all prospective payment hospitals, except sole community hospitals. In addition, the hospital-specific rate would be adjusted by the budget neutrality adjustment factor (that is, 0.996506) as discussed in section II.A.4.a. of this Addendum. The resulting rate is used in determining under which rate a sole community hospital or Medicare-dependent, small rural hospital is paid for its discharges beginning on or after October 1, 2000, based on the formula set forth above.

3. General Formula for Calculation of Prospective Payment Rates for Hospitals Located in Puerto Rico Beginning On or After October 1, 2000 and Before October 1, 2001

a. Puerto Rico Rate

The Puerto Rico prospective payment rate is determined as follows:

Step 1—Select the appropriate adjusted average standardized amount considering the large urban or other designation of the hospital (see Table 1C of section VI of the Addendum).

Step 2—Multiply the labor-related portion of the standardized amount by the appropriate Puerto Rico-specific wage index (see Table 4F of section VI of the Addendum).

Step 3—Add the amount from Step 2 and the nonlabor-related portion of the standardized amount.

Step 4—Multiply the result in Step 3 by 50 percent.

Step 5—Multiply the amount from Step 4 by the appropriate DRG relative weight (see Table 5 of section VI of the Addendum).

b. National Rate

The national prospective payment rate is determined as follows:

Step 1—Multiply the labor-related portion of the national average standardized amount (see Table 1C of section VI of the Addendum) by the appropriate national wage index (see Tables 4A and 4B of section VI of the Addendum).

Step 2—Add the amount from Step 1 and the nonlabor-related portion of the national average standardized amount.

Step 3—Multiply the result in Step 2 by 50 percent.

Step 4—Multiply the amount from Step 3 by the appropriate DRG relative weight (see Table 5 of section VI of the Addendum).

The sum of the Puerto Rico rate and the national rate computed above equals the prospective payment for a given discharge for a hospital located in Puerto Rico.

III. Changes to the Payment Rates for Blood Clotting Factor for Hemophilia Inpatients

For the past 2 years in the **Federal Register** (63 FR 41010 and 64 FR 41549), we have discussed section 4452 of Public Law 105–33, which amended section 6011(d) of Public Law 101–239 to reinstate the add-on payment for the costs of administering blood clotting factor to Medicare beneficiaries who have hemophilia and who are hospital inpatients for discharges occurring on or after October 1, 1997. In these prior rules, we have described the payment policy and specifically listed the updated add-on payment amounts for each clotting factor, as described by HCFA's Common Procedure Coding System (HCPCS). Because we are not changing the policy established 2 years ago, we are proposing to discontinue listing these amounts in the annual proposed and final rules. Instead, the program manuals will instruct fiscal intermediaries to follow this policy and obtain the average wholesale price (AWP) for each relevant HCPCS from either their corresponding local carrier or the Medicare durable medical equipment regional carrier (DMERC) that has jurisdiction in their area. Carriers already calculate the AWP based on the median AWP of the several products available in each category of factor. The payment amount for clotting factors covered by this inpatient benefit is equal to 85 percent of the AWP, subject to the Part A deductible and coinsurance requirements.

The payment amounts will be determined using the most recent AWP data available to the carrier at the time the intermediary performs these annual update calculations. These amounts are updated annually and are effective for discharges beginning on or after October 1 of the current year through September 30 of the following year. Payment will be made for blood clotting factor only if there is an ICD–9–CM diagnosis code for hemophilia included on the bill.

IV. Proposed Changes to Payment Rates for Inpatient Capital-Related Costs for FY 2001

The prospective payment system for hospital inpatient capital-related costs was implemented for cost reporting periods beginning on or after October 1, 1991. Effective with that cost reporting period and during a 10-year transition period extending through FY 2001, hospital inpatient capital-related costs are paid on the basis of an increasing proportion of the capital prospective payment system Federal rate and a decreasing proportion of a hospital's historical costs for capital.

The basic methodology for determining Federal capital prospective rates is set forth at §§ 412.308 through 412.352. Below we discuss the factors that we used to determine the proposed Federal rate and the hospital-specific rates for FY 2001. The rates will be effective for discharges occurring on or after October 1, 2000.

For FY 1992, we computed the standard Federal payment rate for capital-related costs under the prospective payment system by updating the FY 1989 Medicare inpatient capital cost per case by an actuarial estimate of the increase in Medicare inpatient capital costs per case. Each year after FY 1992, we update the standard Federal rate, as provided in § 412.308(c)(1), to account for capital input price increases and other factors. Also, § 412.308(c)(2) provides that the Federal rate is adjusted annually by a factor equal to the estimated proportion of outlier payments under the Federal rate to total capital payments under the Federal rate. In addition, § 412.308(c)(3) requires that the Federal rate be reduced by an adjustment factor equal to the estimated proportion of payments for exceptions under § 412.348. Furthermore, § 412.308(c)(4)(ii) requires that the Federal rate be adjusted so that the annual DRG reclassification and the recalibration of DRG weights and changes in the geographic adjustment factor are budget neutral. For FYs 1992 through 1995, § 412.352 required that the Federal rate also be adjusted by a budget neutrality factor so that aggregate payments for inpatient hospital capital costs were projected to equal 90 percent of the payments that would have been made for capital-related costs on a reasonable cost basis during the fiscal year. That provision expired in FY 1996. Section 412.308(b)(2) describes the 7.4 percent reduction to the rate that was made in FY 1994, and § 412.308(b)(3) describes the 0.28 percent reduction to the rate made in FY 1996 as a result of the revised policy of paying for transfers. In the FY 1998 final rule with comment period (62 FR 45966), we implemented section 4402 of Public Law 105–33, which requires that for discharges occurring on or after October 1, 1997, and before October 1, 2002, the unadjusted standard Federal rate is reduced by 17.78 percent. A small part of that reduction will be restored effective October 1, 2002.

For each hospital, the hospital-specific rate was calculated by dividing the hospital's Medicare inpatient capital-related costs for a specified base year by its Medicare discharges (adjusted for transfers), and dividing the result by the hospital's case mix index (also adjusted for transfers). The resulting case-mix adjusted average cost per discharge was then updated to FY 1992 based on the national average increase in Medicare's inpatient capital cost per discharge and adjusted by the exceptions payment adjustment factor and the budget neutrality adjustment factor to yield the FY 1992 hospital-specific rate. Since FY 1992, the hospital-specific rate has been updated annually for inflation and for changes in the exceptions payment adjustment factor. For FYs 1992 through 1995, the hospital-specific rate was also adjusted by a budget neutrality adjustment factor. For discharges occurring on or after October 1, 1997, and before October 1, 2002, the unadjusted hospital-specific rate is reduced by 17.78 percent. A small part of this reduction will be restored effective October 1, 2002.

To determine the appropriate budget neutrality adjustment factor and the exceptions payment adjustment factor, we developed a dynamic model of Medicare inpatient capital-related costs, that is, a model that projects changes in Medicare inpatient capital-related costs over time. With the expiration of the budget neutrality provision, the model is still used to estimate the exceptions payment adjustment and other factors. The model and its application are described in greater detail in Appendix B of this proposed rule.

In accordance with section 1886(d)(9)(A) of the Act, under the prospective payment system for inpatient operating costs, hospitals located in Puerto Rico are paid for operating costs under a special payment formula. Prior to FY 1998, hospitals in Puerto Rico were paid a blended rate that consisted of 75 percent of the applicable standardized amount specific to Puerto Rico hospitals and 25 percent of the applicable national average standardized amount. However, effective October 1, 1997, as a result of section 4406 of Public Law 105–33, operating payments to hospitals in Puerto Rico are based on a blend of 50 percent of the applicable standardized amount specific to Puerto Rico hospitals and 50 percent of the applicable national average standardized amount. In conjunction with this change to the operating blend percentage, effective with discharges on or after October 1, 1997, we compute capital payments to hospitals in Puerto Rico based on a blend of 50 percent of the Puerto Rico rate and 50 percent of the Federal rate.

Section 412.374 provides for the use of this blended payment system for payments to Puerto Rico hospitals under the prospective payment system for inpatient capital-related costs. Accordingly, for capital-related costs, we compute a separate payment rate specific to Puerto Rico hospitals using the same methodology used to compute the national Federal rate for capital.

A. Determination of Federal Inpatient Capital-Related Prospective Payment Rate Update

In the July 30, 1999 final rule (64 FR 41551), we established a Federal rate of $377.03 for FY 2000. As a result of the changes we are proposing to the factors used to establish the Federal rate in this addendum, the proposed FY 2001 Federal rate is $383.06.

In the discussion that follows, we explain the factors that were used to determine the proposed FY 2001 Federal rate. In particular, we explain why the proposed FY 2001 Federal rate has increased 1.60 percent compared to the FY 2000 Federal rate. We also estimate aggregate capital payments will increase by 5.89 percent during this same period. This increase is primarily due to the increase in the number of hospital admissions, the increase in case-mix, and the increase in the Federal blend percentage from 90 to 100 percent for fully prospective payment hospitals.

Total payments to hospitals under the prospective payment system are relatively unaffected by changes in the capital prospective payments. Since capital payments constitute about 10 percent of hospital payments, a 1 percent change in the capital Federal rate yields only about 0.1 percent change in actual payments to hospitals. Aggregate payments under the capital prospective payment transition system are estimated to increase in FY 2001 compared to FY 2000.

1. Standard Federal Rate Update

a. Description of the Update Framework

Under § 412.308(c)(1), the standard Federal rate is updated on the basis of

an analytical framework that takes into account changes in a capital input price index and other factors. The update framework consists of a capital input price index (CIPI) and several policy adjustment factors. Specifically, we have adjusted the projected CIPI rate of increase as appropriate each year for case-mix index-related changes, for intensity, and for errors in previous CIPI forecasts. The proposed update factor for FY 2001 under that framework is 0.9 percent. This proposal is based on a projected 0.9 percent increase in the CIPI, a 0.0 percent adjustment for intensity, a 0.0 percent adjustment for case-mix, a 0.0 percent adjustment for the FY 1999 DRG reclassification and recalibration, and a forecast error correction of 0.0 percent. We explain the basis for the FY 2001 CIPI projection in section II.D of this Addendum. In this section IV of the Addendum, we describe the policy adjustments that have been applied.

The case-mix index is the measure of the average DRG weight for cases paid under the prospective payment system. Because the DRG weight determines the prospective payment for each case, any percentage increase in the case-mix index corresponds to an equal percentage increase in hospital payments.

The case-mix index can change for any of several reasons:

- The average resource use of Medicare patients changes (''real'' case-mix change);
- Changes in hospital coding of patient records result in higher weight DRG assignments (''coding effects''); and
- The annual DRG reclassification and recalibration changes may not be budget neutral (''reclassification effect'').

We define real case-mix change as actual changes in the mix (and resource requirements) of Medicare patients as opposed to changes in coding behavior that result in assignment of cases to higher weighted DRGs but do not reflect higher resource requirements. In the update framework for the prospective payment system for operating costs, we adjust the update upwards to allow for real case-mix change, but remove the effects of coding changes on the case-mix index. We also remove the effect on total payments of prior changes to the DRG classifications and relative weights, in order to retain budget neutrality for all case-mix index-related changes other than patient severity. (For example, we adjusted for the effects of the FY 1999 DRG reclassification and recalibration as part of our FY 2001 update recommendation.) We have adopted this case-mix index adjustment in the capital update framework as well.

For FY 2001, we are projecting a 0.5 percent increase in the case-mix index. We estimate that real case-mix increase will equal 0.5 percent in FY 2001. Therefore, the proposed net adjustment for case-mix change in FY 2001 is 0.0 percentage points.

We estimate that FY 1999 DRG reclassification and recalibration will result in a 0.0 percent change in the case-mix when compared with the case-mix index that would have resulted if we had not made the reclassification and recalibration changes to the DRGs. Therefore, we are making a 0.0 percent adjustment for DRG reclassification and recalibration in the update recommendation for FY 2001.

The capital update framework contains an adjustment for forecast error. The input price index forecast is based on historical trends and relationships ascertainable at the time the update factor is established for the upcoming year. In any given year there may be unanticipated price fluctuations that may result in differences between the actual increase in prices and the forecast used in calculating the update factors. In setting a prospective payment rate under the framework, we make an adjustment for forecast error only if our estimate of the change in the capital input price index for any year is off by 0.25 percentage points or more. There is a 2-year lag between the forecast and the measurement of the forecast error. A forecast error of 0.0 percentage points was calculated for the FY 1999 update. That is, current historical data indicate that the FY 1999 CIPI used in calculating the forecasted FY 1999 update factor did not overstate or understate realized price increases. Therefore, we are making a 0.0 percent adjustment for forecast error in the update for FY 2001.

Under the capital prospective payment system framework, we also make an adjustment for changes in intensity. We calculate this adjustment using the same methodology and data as in the framework for the operating prospective payment system. The intensity factor for the operating update framework reflects how hospital services are utilized to produce the final product, that is, the discharge. This component accounts for changes in the use of quality-enhancing services, changes in within-DRG severity, and expected modification of practice patterns to remove cost-ineffective services.

We calculate case-mix constant intensity as the change in total charges per admission, adjusted for price level changes (the CPI for hospital and related services), and changes in real case-mix. The use of total charges in the calculation of the proposed intensity factor makes it a total intensity factor, that is, charges for capital services are already built into the calculation of the factor. Therefore, we have incorporated the intensity adjustment from the operating update framework into the capital update framework. Without reliable estimates of the proportions of the overall annual intensity increases that are due, respectively, to ineffective practice patterns and to the combination of quality-enhancing new technologies and within-DRG complexity, we assume, as in the revised operating update framework, that one-half of the annual increase is due to each of these factors. The capital update framework thus provides an add-on to the input price index rate of increase of one-half of the estimated annual increase in intensity to allow for within-DRG severity increases and the adoption of quality-enhancing technology.

For FY 2001, we have developed a Medicare-specific intensity measure based on a 5-year average using FY 1995 through 1999 data. In determining case-mix constant intensity, we found that observed case-mix increase was 1.7 percent in FY 1995, 1.6 percent in FY 1996, 0.3 percent in FY 1997, −0.4 percent in FY 1998, and −0.3 in FY 1999. For FY 1995 and FY 1996, we estimate that real case-mix increase was 1.0 to 1.4 percent each year. The estimate for those years is supported by past studies of case-mix change by the RAND Corporation. The most recent study was ''Has DRG Creep Crept Up? Decomposing the Case Mix Index Change Between 1987 and 1988'' by G.M. Carter, J.P. Newhouse, and D.A. Relles, R–4098–HCFA/ProPAC (1991). The study suggested that real case-mix change was not dependent on total change, but was usually a fairly steady 1.0 to 1.5 percent per year. We use 1.4 percent as the upper bound because the RAND study did not take into account that hospitals may have induced doctors to document medical records more completely in order to improve payment. Following that study, we consider up to 1.4 percent of observed case-mix change as real for FY 1995 through FY 1999. Based on this analysis, we believe that all of the observed case-mix increase for FY 1997, FY 1998, and FY 1999 is real. The increases for FY 1995 and FY 1996 were in excess of our estimate of real case-mix increase.

We calculate case-mix constant intensity as the change in total charges per admission, adjusted for price level

changes (the CPI for hospital and related services), and changes in real case-mix. Given estimates of real case-mix of 1.0 percent for FY 1995, 1.0 percent for FY 1996, 0.3 percent for FY 1997, −0.4 for FY 1998, and −0.3 for FY 1999, we estimate that case-mix constant intensity declined by an average 0.7 percent during FYs 1995 through 1999, for a cumulative decrease of 3.6 percent. If we assume that real case-mix increase was 1.4 percent for FY 1995, 1.4 percent for FY 1996, 0.3 percent for FY 1997, −0.4 for FY 1998, and −0.3 for FY 1999, we estimate that case-mix constant intensity declined by an average 0.9 percent during FYs 1995 through 1999, for a cumulative decrease of 4.5 percent. Since we estimate that intensity has declined during that period, we are recommending a 0.0 percent intensity adjustment for FY 2001. We note that the operating recommendation addressed in Appendix D of this proposed rule reflects the possible range that a negative adjustment could span (−0.6 percent to 0.0 percent adjustment) based on our analyses that intensity has declined during that 5-year period. While the calculation of the adjustment for intensity is identical in both the capital and the operating update frameworks, consistent with past capital update recommendations and the FY 2001 proposed operating recommendation, we are not making a negative adjustment for intensity in the FY 2001 proposed capital update.

b. Comparison of HCFA and MedPAC Update Recommendations

MedPAC's FY 2001 update recommendation for capital prospective payments was not included in its March 2000 Report to Congress. However, MedPAC did announce at its April 13, 2000 public meeting that it was recommending a combined update of between 3.5 percent and 4.0 percent for operating and capital-related payments for FY 2001. This recommendation is higher than the current law amount as prescribed by Public Law 105–33. Because of the timing of the announcement and our need for ample time to perform a proper analysis of the recommendation, we will address the comparison of HCFA's update recommendation and MedPAC's update recommendation in the FY 2001 final rule in August 2000 when we will have had the opportunity to review the data analyses that substantiate MedPAC's recommendation.

In section IV.A.l.a. of this Addendum, we describe the basis of the components used to develop our proposed 0.9 percent FY 2001 capital update factor as shown in Table 1 below.

TABLE 1.—HCFA'S PROPOSED FY 2001 CAPITAL UPDATE FACTOR

Capital Input Price Index	0.9
Intensity	0.0
Case-Mix Adjustment Factors:	
Projected Case-Mix Change	−0.5
Real Across DRG Change	0.5
Subtotal	0.0
Effect of FY 1999 Reclassification and Recalibration	0.0
Forecast Error Correction	0.0
Total Update	0.9

2. Outlier Payment Adjustment Factor

Section 412.312(c) establishes a unified outlier methodology for inpatient operating and inpatient capital-related costs. A single set of thresholds is used to identify outlier cases for both inpatient operating and inpatient capital-related payments. Outlier payments are made only on the portion of the Federal rate that is used to calculate the hospital's inpatient capital-related payments (for example, 100 percent for cost reporting periods beginning in FY 2001 for hospitals paid under the fully prospective payment methodology). Section 412.308(c)(2) provides that the standard Federal rate for inpatient capital-related costs be reduced by an adjustment factor equal to the estimated proportion of outlier payments under the Federal rate to total inpatient capital-related payments under the Federal rate. The outlier thresholds are set so that operating outlier payments are projected to be 5.1 percent of total operating DRG payments. The inpatient capital-related outlier reduction factor reflects the inpatient capital-related outlier payments that would be made if all hospitals were paid 100 percent of the Federal rate. For purposes of calculating the outlier thresholds and the outlier reduction factor, we model payments as if all hospitals were paid 100 percent of the Federal rate because, as explained above, outlier payments are made only on the portion of the Federal rate that is included in the hospital's inpatient capital-related payments.

In the July 30, 1999 final rule, we estimated that outlier payments for capital in FY 2000 would equal 5.98 percent of inpatient capital-related payments based on the Federal rate (64 FR 41553). Accordingly, we applied an outlier adjustment factor of 0.9402 to the Federal rate. Based on the thresholds as set forth in section II.A.4.d. of this Addendum, we estimate that outlier payments for capital will equal 5.84 percent of inpatient capital-related payments based on the Federal rate in FY 2001. Therefore, we are proposing an outlier adjustment factor of 0.9416 to the Federal rate. Thus, the projected percentage of capital outlier payments to total capital standard payments for FY 2001 is lower than the percentage for FY 2000.

The outlier reduction factors are not built permanently into the rates; that is, they are not applied cumulatively in determining the Federal rate. Therefore, the proposed net change in the outlier adjustment to the Federal rate for FY 2001 is 1.0015 (0.9416/0.9402). The outlier adjustment increases the FY 2001 Federal rate by 0.15 percent compared with the FY 2000 outlier adjustment.

3. Budget Neutrality Adjustment Factor for Changes in DRG Classifications and Weights and the Geographic Adjustment Factor

Section 412.308(c)(4)(ii) requires that the Federal rate be adjusted so that aggregate payments for the fiscal year based on the Federal rate after any changes resulting from the annual DRG reclassification and recalibration and changes in the GAF are projected to equal aggregate payments that would have been made on the basis of the Federal rate without such changes. We use the actuarial model, described in Appendix B of this proposed rule, to estimate the aggregate payments that would have been made on the basis of the Federal rate without changes in the DRG classifications and weights and in the GAF. We also use the model to estimate aggregate payments that would be made on the basis of the Federal rate as a result of those changes. We then use these figures to compute the adjustment required to maintain budget neutrality for changes in DRG weights and in the GAF.

For FY 2000, we calculated a GAF/DRG budget neutrality factor of 0.9985. For FY 2001, we are proposing a GAF/DRG budget neutrality factor of 0.9986. The GAF/DRG budget neutrality factors are built permanently into the rates; that is, they are applied cumulatively in determining the Federal rate. This follows from the requirement that estimated aggregate payments each year be no more than they would have been in the absence of the annual DRG reclassification and recalibration and changes in the GAF. The proposed incremental change in the adjustment from FY 2000 to FY 2001 is 0.9986. The proposed cumulative change in the rate due to this adjustment is 1.0060 (the product of the incremental factors for FY 1993, FY 1994, FY 1995, FY 1996,

FY 1997, FY 1998, FY 1999, FY 2000, and the proposed incremental factor for FY 2001:
$0.9980 \times 1.0053 \times 0.9998 \times 0.9994 \times 0.9987 \times 0.9989 \times 1.0028 \times 0.9985 \times 0.9986 = 1.0000$).

This proposed factor accounts for DRG reclassifications and recalibration and for changes in the GAF. It also incorporates the effects on the GAF of FY 2001 geographic reclassification decisions made by the MGCRB compared to FY 2000 decisions. However, it does not account for changes in payments due to changes in the DSH and IME adjustment factors or in the large urban add-on.

4. Exceptions Payment Adjustment Factor

Section 412.308(c)(3) requires that the standard Federal rate for inpatient capital-related costs be reduced by an adjustment factor equal to the estimated proportion of additional payments for exceptions under § 412.348 relative to total payments under the hospital-specific rate and Federal rate. We use the model originally developed for determining the budget neutrality adjustment factor to determine the exceptions payment adjustment factor. We describe that model in Appendix B to this proposed rule.

For FY 2000, we estimated that exceptions payments would equal 2.70 percent of aggregate payments based on the Federal rate and the hospital-specific rate. Therefore, we applied an exceptions reduction factor of 0.9730 (1 − 0.0270) in determining the Federal rate. For this proposed rule, we estimate that exceptions payments for FY 2001 will equal 2.04 percent of aggregate payments based on the Federal rate and the hospital-specific rate. Therefore, we are proposing an exceptions payment reduction factor of 0.9796 to the Federal rate for FY 2001. The proposed exceptions reduction factor for FY 2001 is 0.68 percent higher than the factor for FY 2000.

The exceptions reduction factors are not built permanently into the rates; that is, the factors are not applied cumulatively in determining the Federal rate. Therefore, the proposed net adjustment to the FY 2001 Federal rate is 0.9796/0.9730, or 1.0068.

5. Standard Capital Federal Rate for FY 2001

For FY 2000, the capital Federal rate was $377.03. As a result of changes we are proposing to the factors used to establish the Federal rate, the proposed FY 2001 Federal rate is $383.06. The proposed Federal rate for FY 2001 was calculated as follows:

- The proposed FY 2001 update factor is 1.0090; that is, the proposed update is 0.90 percent.
- The proposed FY 2001 budget neutrality adjustment factor that is applied to the standard Federal payment rate for changes in the DRG relative weights and in the GAF is 0.9986.
- The proposed FY 2001 outlier adjustment factor is 0.9416.
- The proposed FY 2001 exceptions payments adjustment factor is 0.9796.

Since the Federal rate has already been adjusted for differences in case-mix, wages, cost-of-living, indirect medical education costs, and payments to hospitals serving a disproportionate share of low-income patients, we propose to make no additional adjustments in the standard Federal rate for these factors other than the budget neutrality factor for changes in the DRG relative weights and the GAF.

We are providing a chart that shows how each of the factors and adjustments for FY 2001 affected the computation of the proposed FY 2001 Federal rate in comparison to the FY 2000 Federal rate. The proposed FY 2001 update factor has the effect of increasing the Federal rate by 0.90 percent compared to the rate in FY 2000, while the proposed geographic and DRG budget neutrality factor has the effect of decreasing the Federal rate by 0.14 percent. The proposed FY 2001 outlier adjustment factor has the effect of increasing the Federal rate by 0.15 percent compared to FY 2000. The proposed FY 2001 exceptions reduction factor has the effect of increasing the Federal rate by 0.68 percent compared to the exceptions reduction for FY 2000. The combined effect of all the proposed changes is to increase the proposed Federal rate by 1.60 percent compared to the Federal rate for FY 2000.

COMPARISON OF FACTORS AND ADJUSTMENTS: FY 2000 FEDERAL RATE AND PROPOSED FY 2001 FEDERAL RATE

	FY 2000	Proposed FY 2001	Change	Percent change
Update factor [1]	1.0030	1.0090	1.0090	0.90
GAF/DRG Adjustment Factor [1]	0.9985	0.9986	0.9986	−0.14
Outlier Adjustment Factor [2]	0.9402	0.9416	1.0015	0.15
Exceptions Adjustment Factor [2]	0.9730	0.9796	1.0068	0.68
Federal Rate	$377.03	$383.06	1.0160	1.60

[1] The update factor and the GAF/DRG budget neutrality factors are built permanently into the rates. Thus, for example, the incremental change from FY 2000 to FY 2001 resulting from the application of the 0.9986 GAF/DRG budget neutrality factor for FY 2001 is 0.9986.

[2] The outlier reduction factor and the exceptions reduction factor are not built permanently into the rates; that is, these factors are not applied cumulatively in determining the rates. Thus, for example, the net change resulting from the application of the FY 2001 outlier reduction factor is 0.9416/0.9402, or 1.0015.

6. Special Rate for Puerto Rico Hospitals

As explained at the beginning of section IV of this Addendum, hospitals in Puerto Rico are paid based on 50 percent of the Puerto Rico rate and 50 percent of the Federal rate. The Puerto Rico rate is derived from the costs of Puerto Rico hospitals only, while the Federal rate is derived from the costs of all acute care hospitals participating in the prospective payment system (including Puerto Rico). To adjust hospitals' capital payments for geographic variations in capital costs, we apply a geographic adjustment factor (GAF) to both portions of the blended rate. The GAF is calculated using the operating prospective payment system wage index and varies depending on the MSA or rural area in which the hospital is located. We use the Puerto Rico wage index to determine the GAF for the Puerto Rico part of the capital-blended rate and the national wage index to determine the GAF for the national part of the blended rate.

Since we implemented a separate GAF for Puerto Rico in FY 1998, we also apply separate budget neutrality adjustments for the national GAF and for the Puerto Rico GAF. However, we apply the same budget neutrality factor for DRG reclassifications and recalibration nationally and for Puerto Rico. The Puerto Rico GAF budget

neutrality factor is 1.0031, while the DRG adjustment is 1.0002, for a combined cumulative adjustment of 1.0033.

In computing the payment for a particular Puerto Rico hospital, the Puerto Rico portion of the rate (50 percent) is multiplied by the Puerto Rico-specific GAF for the MSA in which the hospital is located, and the national portion of the rate (50 percent) is multiplied by the national GAF for the MSA in which the hospital is located (which is computed from national data for all hospitals in the United States and Puerto Rico). In FY 1998, we implemented a 17.78 percent reduction to the Puerto Rico rate as a result of Public Law 105–33.

For FY 2000, before application of the GAF, the special rate for Puerto Rico hospitals was $174.81. With the changes we are proposing to the factors used to determine the rate, the proposed FY 2001 special rate for Puerto Rico is $185.38.

B. Calculation of Inpatient Capital-Related Prospective Payments for FY 2001

During the capital prospective payment system transition period, a hospital is paid for the inpatient capital-related costs under one of two payment methodologies—the fully prospective payment methodology or the hold-harmless methodology. The payment methodology applicable to a particular hospital is determined when a hospital comes under the prospective payment system for capital-related costs by comparing its hospital-specific rate to the Federal rate applicable to the hospital's first cost reporting period under the prospective payment system. The applicable Federal rate was determined by making adjustments as follows:

- For outliers, by dividing the standard Federal rate by the outlier reduction factor for that fiscal year; and
- For the payment adjustments applicable to the hospital, by multiplying the hospital's GAF, disproportionate share adjustment factor, and IME adjustment factor, when appropriate.

If the hospital-specific rate is above the applicable Federal rate, the hospital is paid under the hold-harmless methodology. If the hospital-specific rate is below the applicable Federal rate, the hospital is paid under the fully prospective methodology.

For purposes of calculating payments for each discharge under both the hold-harmless payment methodology and the fully prospective payment methodology, the standard Federal rate is adjusted as follows: (Standard Federal Rate) × (DRG weight) × (GAF) × (Large Urban Add-on, if applicable) × (COLA adjustment for hospitals located in Alaska and Hawaii) × (1 + Disproportionate Share Adjustment Factor + IME Adjustment Factor, if applicable).

The result is the adjusted Federal rate.

Payments under the hold-harmless methodology are determined under one of two formulas. A hold-harmless hospital is paid the higher of the following:

- 100 percent of the adjusted Federal rate for each discharge; or
- An old capital payment equal to 85 percent (100 percent for sole community hospitals) of the hospital's allowable Medicare inpatient old capital costs per discharge for the cost reporting period plus a new capital payment based on a percentage of the adjusted Federal rate for each discharge. The percentage of the adjusted Federal rate equals the ratio of the hospital's allowable Medicare new capital costs to its total Medicare inpatient capital-related costs in the cost reporting period.

Once a hospital receives payment based on 100 percent of the adjusted Federal rate in a cost reporting period beginning on or after October 1, 1994 (or the first cost reporting period after obligated capital that is recognized as old capital under § 412.302(c) is put in use for patient care, if later), the hospital continues to receive capital prospective payment system payments on that basis for the remainder of the transition period.

Payment for each discharge under the fully prospective methodology is based on the applicable transition blend percentage of the hospital-specific rate and the adjusted Federal rate.

Thus, for FY 2001 payments under the fully prospective methodology will be based on 100 percent of the adjusted Federal rate and zero percent of the hospital-specific rate.

Hospitals also may receive outlier payments for those cases that qualify under the thresholds established for each fiscal year. Section 412.312(c) provides for a single set of thresholds to identify outlier cases for both inpatient operating and inpatient capital-related payments. Outlier payments are made only on that portion of the Federal rate that is used to calculate the hospital's inpatient capital-related payments. For fully prospective hospitals, that portion is 100 percent of the Federal rate for discharges occurring in cost reporting periods beginning during FY 2001. Thus, a fully prospective hospital will receive 100 percent of the capital-related outlier payment calculated for the case for discharges occurring in cost reporting periods beginning in FY 2001. For hold-harmless hospitals that are paid 85 percent of their reasonable costs for old inpatient capital, the portion of the Federal rate that is included in the hospital's outlier payments is based on the hospital's ratio of Medicare inpatient costs for new capital to total Medicare inpatient capital costs. For hold-harmless hospitals that are paid 100 percent of the Federal rate, 100 percent of the Federal rate is included in the hospital's outlier payments.

The proposed outlier thresholds for FY 2001 are in section II.A.4.c. of this Addendum. For FY 2001, a case qualifies as a cost outlier if the cost for the case (after standardization for the indirect teaching adjustment and disproportionate share adjustment) is greater than the prospective payment rate for the DRG plus $17,250.

During the capital prospective payment system transition period, a hospital also may receive an additional payment under an exceptions process if its total inpatient capital-related payments are less than a minimum percentage of its allowable Medicare inpatient capital-related costs. The minimum payment level is established by class of hospital under § 412.348. The proposed minimum payment levels for portions of cost reporting periods occurring in FY 2001 are:

- Sole community hospitals (located in either an urban or rural area), 90 percent;
- Urban hospitals with at least 100 beds and a disproportionate share patient percentage of at least 20.2 percent or that receive more than 30 percent of their net inpatient care revenues from State or local governments for indigent care, 80 percent; and
- All other hospitals, 70 percent.

Under § 412.348(d), the amount of the exceptions payment is determined by comparing the cumulative payments made to the hospital under the capital prospective payment system to the cumulative minimum payment levels applicable to the hospital for each cost reporting period subject to that system. Any amount by which the hospital's cumulative payments exceed its cumulative minimum payment is deducted from the additional payment that would otherwise be payable for a cost reporting period. New hospitals are exempted from the capital prospective payment system for their first 2 years of operation and are paid 85 percent of their reasonable costs during that period. A new hospital's old capital costs are its allowable costs for capital assets that were put in use for patient care on or before the later of December

31, 1990, or the last day of the hospital's base year cost reporting period, and are subject to the rules pertaining to old capital and obligated capital as of the applicable date. Effective with the third year of operation, we will pay the hospital under either the fully prospective methodology, using the appropriate transition blend in that Federal fiscal year, or the hold-harmless methodology. If the hold-harmless methodology is applicable, the hold-harmless payment for assets in use during the base period would extend for 8 years, even if the hold-harmless payments extend beyond the normal transition period.

C. Capital Input Price Index

1. Background

Like the operating input price index, the capital input price index (CIPI) is a fixed-weight price index that measures the price changes associated with costs during a given year. The CIPI differs from the operating input price index in one important aspect—the CIPI reflects the vintage nature of capital, which is the acquisition and use of capital over time. Capital expenses in any given year are determined by the stock of capital in that year (that is, capital that remains on hand from all current and prior capital acquisitions). An index measuring capital price changes needs to reflect this vintage nature of capital. Therefore, the CIPI was developed to capture the vintage nature of capital by using a weighted-average of past capital purchase prices up to and including the current year.

Using Medicare cost reports, American Hospital Association (AHA) data, and Securities Data Company data, a vintage-weighted price index was developed to measure price increases associated with capital expenses. We periodically update the base year for the operating and capital input prices to reflect the changing composition of inputs for operating and capital expenses. Currently, the CIPI is based to FY 1992 and was last rebased in 1997. The most recent explanation of the CIPI was discussed in the final rule with comment period for FY 1998 published on August 29, 1997 (62 FR 46050).

2. Forecast of the CIPI for Federal Fiscal Year 2001

We are forecasting the CIPI to increase 0.9 percent for FY 2001. This reflects a projected 1.5 percent increase in vintage-weighted depreciation prices (building and fixed equipment, and movable equipment) and a 3.5 percent increase in other capital expense prices in FY 2001, partially offset by a 1.3 percent decline in vintage-weighted interest rates in FY 2001. The weighted average of these three factors produces the 0.9 percent increase for the CIPI as a whole.

V. Proposed Changes to Payment Rates for Excluded Hospitals and Hospital Units: Rate-of-Increase Percentages

The inpatient operating costs of hospitals and hospital units excluded from the prospective payment system are subject to rate-of-increase limits established under the authority of section 1886(b) of the Act, which is implemented in regulations at § 413.40. Under these limits, a hospital-specific target amount (expressed in terms of the inpatient operating cost per discharge) is set for each hospital, based on the hospital's own historical cost experience trended forward by the applicable rate-of-increase percentages (update factors). In the case of a psychiatric hospital or hospital unit, a rehabilitation hospital or hospital unit, or a long-term care hospital, the target amount may not exceed the updated figure for the 75th percentile of target amounts adjusted to take into account differences between average wage-related costs in the area of the hospital and the national average of such costs within the same class of hospital for hospitals and units in the same class (psychiatric, rehabilitation, and long-term care) for cost reporting periods ending during FY 1996. The target amount is multiplied by the number of Medicare discharges in a hospital's cost reporting period, yielding the ceiling on aggregate Medicare inpatient operating costs for the cost reporting period.

Each hospital-specific target amount is adjusted annually, at the beginning of each hospital's cost reporting period, by an applicable update factor.

Section 1886(b)(3)(B) of the Act, which is implemented in regulations at § 413.40(c)(3)(vii), provides that for cost reporting periods beginning on or after October 1, 1998 and before October 1, 2002, the update factor for a hospital or unit depends on the hospital's or hospital unit's costs in relation to the ceiling for the most recent cost reporting period for which information is available. For hospitals with costs exceeding the ceiling by 10 percent or more, the update factor is the market basket increase. For hospitals with costs exceeding the ceiling by less than 10 percent, the update factor is the market basket minus .25 percent for each percentage point by which costs are less than 10 percent over the ceiling. For hospitals with costs equal to or less than the ceiling but greater than 66.7 percent of the ceiling, the update factor is the greater of 0 percent or the market basket minus 2.5 percent. For hospitals with costs that do not exceed 66.7 percent of the ceiling, the update factor is 0.

The most recent forecast of the market basket increase for FY 2001 for hospitals and hospital units excluded from the prospective payment system is 3.1 percent. Therefore, the update to a hospital's target amount for its cost reporting period beginning in FY 2001 would be between 0.6 and 3.1 percent, or 0 percent, depending on the hospital's or unit's costs in relation to its rate-of-increase limit.

In addition, § 413.40(c)(4)(iii) requires that for cost reporting periods beginning on or after October 1, 1998 and before October 1, 2002, the target amount for each psychiatric hospital or hospital unit, rehabilitation hospital or hospital unit, and long-term care hospital cannot exceed a cap on the target amounts for hospitals in the same class.

Section 121 of Public Law 106–113 amended section 1886(b)(3)(H) of the Act to provide for an appropriate wage adjustment to the caps on the target amounts for psychiatric hospitals and units, rehabilitation hospitals and units, and long-term care hospitals, effective for cost reporting periods beginning on or after October 1, 1999, through September 30, 2002. We intend to publish an interim final rule with comment period implementing this provision for cost reporting periods beginning on or after October 1, 1999 and before October 1, 2000. This proposed rule addresses the wage adjustment to the caps for cost reporting periods beginning on or after October 1, 2000.

As discussed in section VI. of the preamble of this proposed rule, under section 121 of Public Law 106–113, the cap on the target amount per discharge is determined by adding the hospital's nonlabor-related portion of the national 75th percentile cap to its wage-adjusted, labor-related portion of the national 75th percentile cap (the labor-related portion of costs equals 0.71553 and the nonlabor-related portion of costs equals 0.28447). A hospital's wage-adjusted, labor-related portion of the target amount is calculated by multiplying the labor-related portion of the national 75th percentile cap for the hospital's class by the wage index under the hospital inpatient prospective payment system (see § 412.63), without taking into account reclassifications under sections 1886(a)(10) and (d)(8)(B) of the Act.

For cost reporting periods beginning in FY 2001, the proposed caps are as follows:

Class of excluded hospital or unit	Labor-related share	Nonlabor-related share
Psychiatric	$8,106	$3,223
Rehabilitation	15,108	6,007
Long-Term Care	29,312	11,654

Regulations at § 413.40(d) specify the formulas for determining bonus and relief payments for excluded hospitals and specify established criteria for an additional bonus payment for continuous improvement. Regulations at §413.40(f)(2)(ii) specify the payment methodology for new hospitals and hospital units (psychiatric, rehabilitation, and long-term care) effective October 1, 1997.

VI. Tables

This section contains the tables referred to throughout the preamble to this proposed rule and in this Addendum. For purposes of this proposed rule, and to avoid confusion, we have retained the designations of Tables 1 through 5 that were first used in the September 1, 1983 initial prospective payment final rule (48 FR 39844). Tables 1A, 1C, 1D, 1E (a new table, as described in section II of this Addendum), 3C, 4A, 4B, 4C, 4D, 4E, 4F, 5, 6A, 6B, 6C, 6D, 6E, 6F, 6G, 7A, 7B, 8A, and 8B are presented below. The tables presented below are as follows:

Table 1A—National Adjusted Operating Standardized Amounts, Labor/Nonlabor
Table 1C—Adjusted Operating Standardized Amounts for Puerto Rico, Labor/Nonlabor
Table 1D—Capital Standard Federal Payment Rate
Table 1E—National Adjusted Operating Standardized Amounts for Sole Community Hospitals, Labor/Nonlabor
Table 3C—Hospital Case Mix Indexes for Discharges Occurring in Federal Fiscal Year 1999 and Hospital Average Hourly Wage for Federal Fiscal Year 2001 Wage Index
Table 4A—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas
Table 4B—Wage Index and Capital Geographic Adjustment Factor (GAF) for Rural Areas
Table 4C—Wage Index and Capital Geographic Adjustment Factor (GAF) for Hospitals That Are Reclassified
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Table 5—List of Diagnosis Related Groups (DRGs), Relative Weighting Factors, Geometric Mean Length of Stay, and Arithmetic Mean Length of Stay Points Used in the Prospective Payment System
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Table 6B—New Procedure Codes
Table 6C—Invalid Diagnosis Codes
Table 6D—Revised Diagnosis Code Titles
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Table 7A—Medicare Prospective Payment System Selected Percentile Lengths of Stay FY 99 MEDPAR Update 12/99 GROUPER V17.0
Table 7B—Medicare Prospective Payment System Selected Percentile Lengths of Stay FY 99 MEDPAR Update 12/99 GROUPER V18.0
Table 8A—Statewide Average Operating Cost-to-Charge Ratios for Urban and Rural Hospitals (Case Weighted) March 2000
Table 8B—Statewide Average Capital Cost-to-Charge Ratios (Case Weighted) March 2000

TABLE 1A.—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS, LABOR/NONLABOR

Large urban areas		Other areas	
Labor-related	Nonlabor-related	Labor-related	Nonlabor related
$2,856.71	$1,161.17	$2,811.49	$1,142.79

TABLE 1C.—ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR PUERTO RICO, LABOR/NONLABOR

	Large urban areas		Other areas	
	Labor	Nonlabor	Labor	Nonlabor
National	$2,832.11	$1,151.16	$2,832.11	$1,151.16
Puerto Rico	1,373.19	552.74	1,351.45	543.99

TABLE 1D.—CAPITAL STANDARD FEDERAL PAYMENT RATE

	Rate
National	$383.06
Puerto Rico	185.38

TABLE 1E.—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR SOLE COMMUNITY HOSPITALS, LABOR/NONLABOR

Large urban areas		Other areas	
Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
$2,887.52	$1,173.69	$2,841.81	$1,155.11

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
010001	1.4278	16.48	010052	1.0036	16.97	010109	1.0212	15.33	020005	0.8798	34.13	030025	0.9391	13.27	030085	1.4869	19.44
010004	1.0044	18.05	010053	1.0194	14.68	010110	0.8850		020006	1.1483	31.85	030027	0.9273	16.22	030086	3.7429	19.83
010005	1.2480	17.66	010054	1.1445	18.51	010112	1.0528	15.23	020007	0.9380	29.28	030030	1.6808	21.20	030087	1.5545	21.43
010006	1.4005	16.52	010055	1.4568	19.26	010113	1.6470	17.01	020008	1.0787	29.56	030033	1.2105	19.76	030088	1.3535	19.87
010007	1.1113	15.58	010056	1.3395	19.25	010114	1.3085	15.26	020009	0.8178	20.45	030034	0.9505	17.14	030089	1.5928	20.40
010008	1.0850	15.00	010058	0.9947	16.92	010115	0.8637	14.81	020010	0.9175	26.72	030035	1.2644	19.50	030092	1.5998	16.26
010009	1.0667	19.19	010059	1.0876	19.35	010118	1.2302		020011	0.9195	30.48	030036	1.2424	20.76	030093	1.3244	19.87
010010	1.0880	16.53	010061	0.9942	15.11	010119	0.7846	18.81	020012	1.2732	25.24	030037	2.0155	23.11	030094	1.2428	21.62
010011	1.6150	20.81	010062	1.1101	15.10	010120	0.9620	17.34	020013	1.0626	24.47	030038	1.5713	22.80	030095	0.9887	13.73
010012	1.3045	17.81	010064	1.8161	20.51	010121	1.2250	14.74	020014	1.1975	29.43	030040	1.0698	18.96	030099	0.9042	16.18
010015	0.9885	15.53	010065	1.2896	16.52	010123	1.2688	16.64	020017	1.6744	26.77	030041	0.8919	16.42	030100	1.9339	
010016	1.2621	17.28	010066	0.8539	15.77	010124		16.19	020018	0.9153		030043	1.2572	21.06	030101	1.5440	
010018	1.0469	18.08	010068	1.2576	15.31	010125	1.0259	15.71	020019	0.8528		030044	0.9287	16.86	030102	2.5438	
010019	1.1669	16.39	010069	1.1548	13.99	010126	1.0986	19.69	020021	0.8346		030047	0.8511	22.78	030103	1.6998	
010021	1.1984	16.38	010072	1.1114	15.08	010127		19.53	020024	1.0545	24.09	030049	0.8952	19.63	040001	1.1033	15.30
010022	1.0132	18.93	010073	0.8978	14.15	010128	0.9027	14.62	020025	0.8695	21.78	030054	0.8303	15.37	040002	1.0913	13.15
010023	1.7280	16.19	010078	1.2693	17.97	010129	1.0588	14.86	020026	1.4409		030055	1.2365	16.43	040003	1.0704	14.57
010024	1.3789	16.31	010079	1.2290	16.63	010130	0.9895	16.85	020027	0.9912		030059	1.3346	24.08	040004	1.6137	18.04
010025	1.2878	15.24	010081	1.3804		010131	1.2724		030001	1.3884	20.41	030060	1.1248	19.25	040005	0.9870	13.31
010027	0.8252	13.87	010083	1.1286	16.91	010134	0.8020	20.58	030002	1.8195	21.78	030061	1.6762	18.94	040007	1.6837	22.13
010029	1.5749	17.73	010084	1.4695	18.53	010137	1.3159	12.12	030003	2.2304	23.99	030062	1.1606	17.72	040008	1.0106	16.25
010031	1.3683	18.78	010085	1.3068	18.60	010138	0.9615	13.19	030004	0.8905	14.17	030064	1.7355	19.64	040010	1.2831	18.75
010032	0.8616	12.84	010086	1.0467	16.69	010139	1.5811	18.47	030006	1.5664	18.32	030065	1.7670	20.60	040011	0.9495	14.97
010033	2.0389	20.47	010087	1.7488	19.03	010143	1.1549	21.75	030007	1.2621	19.72	030067	1.1041	14.49	040014	1.4163	17.92
010034	1.0754	15.23	010089	1.2804	16.84	010144	1.4251	17.17	030008	2.0733	22.37	030068	1.0055	17.59	040015	1.1470	17.02
010035	1.2529	20.25	010090	1.6551	18.39	010145	1.2446	20.42	030009	1.1418	18.28	030069	1.3547	19.19	040016	1.6706	19.04
010036	1.0593		010091	0.9348	14.08	010146	1.2935	18.56	030010	1.3827	19.15	030071	0.8901		040017	1.1720	13.03
010038	1.2051	18.27	010092	1.3926	17.05	010148	0.9818	12.34	030011	1.3897	19.33	030072	0.9288		040018	1.1338	17.75
010039	1.6101	20.18	010095	0.9413	12.70	010149	1.2070	18.56	030012	1.2263	19.09	030073	1.0146		040019	1.0841	24.51
010040	1.4448	19.06	010097	0.8645	13.21	010150	1.0460	18.15	030013	1.2632	20.84	030074	0.9404		040020	1.5875	18.36
010043	1.0006	38.25	010098	0.9268	16.03	010152	1.3025	17.83	030014	1.5248	20.05	030075	0.8153		040021	1.2297	17.91
010044	0.9812	22.99	010099	1.1312	16.03	010155	1.0695	9.36	030016	1.3278	19.70	030076	0.8824		040022	1.4451	17.16
010045	1.1916	15.62	010100	1.2961	17.27	010157	1.1997		030017	1.4749	23.11	030077	0.8316		040024	1.0611	14.61
010046	1.5065	17.44	010101	1.1235	15.45	010158	1.0853	17.24	030018	1.8380	20.52	030078	1.1559		040025	0.8692	11.59
010047	0.9422	13.41	010102	0.9079	14.02	010159	1.1094		030019	1.2068	21.76	030079	0.8532		040026	1.6035	19.88
010049	1.1846	14.77	010103	1.8380	18.01	020001	1.4984	28.36	030022	1.4836	15.20	030080	1.3803	20.60	040027	1.3965	16.30
010050	1.0824	18.66	010104	1.7096	17.80	020002	1.0103	24.89	030023	1.4898	23.86	030083	1.2592	21.08	040028	0.9947	14.91
010051	0.8974	12.19	010108	1.1564	18.37	020004	1.0683	30.98	030024	1.7420	22.82	030084	1.1379		040029	1.2723	18.03

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
040030	0.9396	13.93	040090	0.8630	18.35	050033	1.4729	25.01	050090	1.2709	23.64	050138	2.1622	37.84	050207	1.2349	21.65
040032	0.9438	14.03	040091	1.2296	17.53	050036	1.7390	21.36	050091	1.1410	25.29	050139	1.1982	33.13	050211	1.2346	31.95
040035	0.9216	13.01	040093	0.9349	12.78	050038	1.3755	28.81	050092	0.8504	16.86	050140	1.3758	34.43	050213	1.5148	21.50
040036	1.3589	18.98	040100	1.1438	14.87	050039	1.5488	22.70	050093	1.5478	25.37	050144	1.4526	28.29	050214	1.5278	21.84
040037	1.0868	15.10	040105	0.9922	15.78	050040	1.2641	33.40	050095		35.99	050145	1.3372	32.41	050215	1.5854	30.03
040039	1.2271	14.46	040106	1.0883	15.86	050042	1.2409	24.99	050096	1.0790	20.54	050146	1.6424		050217	1.2598	19.60
040040	0.9470	18.23	040107	1.0434	19.01	050043	1.5334	33.33	050097	1.4223	16.40	050148	1.0688	22.00	050219	1.0474	21.83
040041	1.2165	16.08	040109	1.1328	14.77	050045	1.2221	19.88	050099	1.4583	24.98	050149	1.3785	24.71	050222	1.6060	27.54
040042	1.2980	15.35	040114	1.8654	18.87	050046	1.1393	26.07	050100	1.7205	30.18	050150	1.2152	25.13	050224	1.6205	23.61
040044	1.0474	12.80	040116		20.35	050047	1.6262	30.13	050101	1.4103	31.14	050152	1.3259	34.39	050225	1.5004	31.58
040045	0.9487	15.24	040118	1.4710	19.61	050051	0.9881	18.18	050102	1.2911	22.30	050153	1.6067	30.64	050226	1.4298	27.83
040047	1.0359	17.09	040119	1.1794	15.59	050054	1.1959	20.75	050103	1.5882	25.01	050155	1.0591	24.84	050228	1.3532	34.31
040050	1.1708	13.80	040124	0.9563	19.26	050055	1.1956	29.72	050104	1.4022	25.67	050158	1.2985	27.84	050230	1.5494	27.88
040051	1.0438	15.99	040126	0.9145	12.72	050056	1.3751	27.51	050107	1.4130	21.70	050159	1.3185	23.54	050231	1.5745	26.19
040053	1.0545	16.66	040132		22.62	050057	1.6438	21.42	050108	1.8758	23.62	050167	1.4456	21.96	050232	1.7691	24.56
040054	1.0183	15.43	040134	2.6352	18.08	050058	1.4738	23.34	050110	1.1566	20.62	050168	1.5914	23.46	050234	1.1381	26.03
040055	1.4727	17.25	040135	1.4738	22.68	050060	1.5538	20.87	050111	1.2612	21.19	050169	1.4356	22.55	050235	1.5844	25.46
040058	1.0376	17.82	040136	2.2661		050061	1.3808	23.74	050112	1.4206	25.37	050170	1.4332	24.06	050236	1.3946	27.29
040060	0.9530	13.75	050002	1.5128	39.36	050063	1.3292	25.16	050113	1.2119	29.30	050172	1.2213	20.18	050238	1.5409	24.47
040062	1.5948	23.18	050006	1.4846	19.18	050065	1.7146	24.28	050114	1.3399	24.85	050173	1.1939	25.08	050239	1.6537	22.66
040064	1.0306	11.06	050007	1.4729	30.71	050066	1.3859	16.69	050115	1.5070	21.41	050174	1.7347	31.50	050240	1.5264	26.54
040066	1.0685	18.42	050008	1.4666	26.73	050067	1.2756	23.15	050116	1.5553	25.24	050175	1.3795	27.96	050241		26.37
040067	1.0625	14.70	050009	1.6262	27.06	050068	1.0637	21.52	050117	1.3992	23.39	050177	1.2057	21.80	050242	1.3988	31.31
040069	1.0577	17.80	050013	1.9833	22.96	050069	1.5647	25.94	050118	1.1741	23.77	050179	1.2162	22.06	050243	1.5571	29.12
040070	0.9170	17.07	050014	1.1307	22.98	050070	1.3225	32.87	050121	1.3144	19.60	050180	1.5819	31.96	050245	1.5661	23.85
040071	1.5990	17.07	050015	1.4834	26.26	050071	1.2657	33.34	050122	1.6021	26.34	050183		20.36	050248	1.2079	26.33
040072	1.0365	16.30	050016	1.2089	20.67	050072	1.2791	33.53	050124	1.2563	22.88	050186	1.3599	22.79	050251	1.0433	22.39
040074	1.2996	18.48	050017	2.1001	23.22	050073	1.2635	33.65	050125	1.3273	29.60	050188	1.4760	28.30	050253	1.4115	16.07
040075	0.9771	13.40	050018	1.2245	15.49	050075	1.2788	34.10	050126	1.4554	24.03	050189	0.9957	23.30	050254	1.1387	19.40
040076	1.1181	19.37	050021		26.03	050076	2.3071	27.82	050127	1.2415	22.19	050191	1.3715	20.91	050256	1.7386	23.81
040077	1.0444	13.09	050022	1.6509	24.12	050077	1.5543	24.15	050128	1.5294	25.89	050192	1.0556	18.68	050257	1.0952	15.32
040078	1.5847	19.15	050024	1.3078	21.57	050078	1.3423	23.35	050129	1.6749	26.64	050193	1.1442	22.86	050260	0.9729	23.62
040080	1.0164	19.53	050025	1.7364	23.45	050079	1.5386	33.54	050131	1.2584	31.24	050194	1.2706	35.58	050261	1.2542	20.10
040081	0.8832	11.39	050026	1.5282	27.92	050080		9.75	050132	1.3424	24.18	050195	1.5371	31.73	050262	1.8299	28.95
040082	1.0656	16.71	050028	1.3459	16.61	050082	1.6267	22.15	050133	1.2297	25.34	050196	1.3094	18.52	050264	1.3077	32.34
040084	1.1044	17.31	050029	1.2962	24.97	050084	1.5992	23.67	050135	1.3515	23.28	050197	2.0328	35.59	050267	1.7131	26.61
040085	1.1034	17.17	050030	1.2994	21.25	050088	0.9057	20.84	050136	1.2602	25.49	050204	1.4464	23.69	050270	1.3463	24.10
040088	1.3771	17.56	050032	1.2823	25.20	050089	1.2844	20.42	050137	1.3354	33.15	050205	1.2961	23.79	050272	1.3864	22.55

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
050274		21.90	050336	1.3148	21.11	050411	1.3325	35.12	050482	0.9444	18.33	050557	1.4917	21.19	050616	1.3945	23.24
050276	1.2294	30.14	050337	1.3409		050414	1.2163	24.21	050483		22.72	050559	1.3253	23.97	050618	0.9941	23.36
050277	1.3544	20.11	050342	1.2318	20.36	050417	1.2669	21.72	050485	1.5748	23.02	050561	1.1922	34.74	050623	1.3428	31.48
050278	1.5520	25.08	050343		17.21	050419	1.4211	24.35	050488	1.3457	34.75	050564	1.5745	23.81	050624	1.3036	22.73
050279	1.2438	21.49	050348	1.7938	24.04	050420	1.2836	22.37	050491	1.1162	26.54	050565		23.80	050625	1.6119	24.49
050280	1.6911	25.35	050349	0.8931	14.98	050423	1.1073	17.37	050492	1.4207	19.55	050566	0.9362	17.63	050630	1.1955	23.92
050281	1.4283	19.89	050350	1.4083	24.94	050424	1.8977	22.86	050494	1.2611	29.94	050567	1.5233	24.77	050633	1.3384	23.19
050282	1.3177	28.95	050351	1.4618	25.59	050425	1.2423	33.01	050496	1.6631	32.63	050568	1.2199	19.62	050636	1.3775	21.49
050283	1.5413	29.91	050352	1.3581	26.44	050426	1.4516	25.41	050497	0.8187	14.88	050569	1.2256	26.84	050638	1.2242	18.30
050286		17.82	050353	1.5558	23.07	050427	0.9257	21.09	050498	1.2010	25.23	050570	1.5758	25.35	050641	1.1934	22.08
050289	1.7695	34.63	050355	0.8485	23.11	050430	0.9850	27.11	050502	1.7562	22.26	050571	1.4012	26.67	050643	0.8109	
050290	1.6650	28.62	050357	1.3840	22.77	050432	1.5787	24.47	050503	1.3611	24.50	050573	1.5665	25.04	050644	1.0478	22.61
050291	1.2493	30.37	050359	1.2337	17.86	050433	0.9702	18.78	050506	1.3777	25.26	050575	1.0859	19.56	050660	1.3988	
050292	1.0279	21.61	050360	1.3884	31.55	050434	1.0486	20.11	050510	1.1881	33.68	050577	1.3890	25.18	050661		19.69
050293	1.3962	22.40	050366	1.2354	23.85	050435	1.2440	26.85	050512	1.3509	35.79	050578	1.3082	29.18	050662	0.7821	33.69
050295	1.4548	21.44	050367	1.2265	28.47	050436		14.82	050515	1.3677	35.59	050579	1.3288	30.66	050663	1.0923	31.69
050296	1.1963	27.85	050369	1.3186	27.11	050438	1.7067	25.19	050516	1.4960	24.85	050580	1.2433	26.07	050667	0.9630	31.43
050298	1.2708	24.45	050373	1.3850	25.58	050440	1.2249	24.04	050517	1.1888	20.96	050581	1.4087	23.94	050668	1.0342	90.35
050299	1.4014	26.61	050376	1.5450	25.95	050441	1.9566	33.91	050522	1.1530	35.75	050583	1.5685	24.46	050670	0.7818	20.09
050300	1.5156	23.47	050377	0.9251	17.68	050443	0.7635	20.72	050523	1.2555	27.10	050584	1.1277	21.24	050674	1.2419	35.29
050301	1.2115	21.96	050378	1.1115	26.25	050444	1.3293	21.66	050526	1.2341	24.10	050585	1.2603	26.14	050675		15.68
050305	1.5654	34.96	050379	0.9780	17.02	050446	0.8819	20.67	050528	1.1751	19.06	050586	1.2224	23.57	050676	0.9591	21.14
050307		23.86	050380	1.6373	31.53	050447	1.0026	17.98	050531	1.1211	22.73	050588	1.3006	25.56	050677	1.3600	35.65
050308	1.4622	29.42	050382	1.3438	25.57	050448	1.0667	18.32	050534	1.2604	24.07	050589	1.1422	24.87	050678	1.3388	26.89
050309	1.2943	23.86	050385	1.4093	24.94	050449	1.4294	23.88	050535	1.2211	26.03	050590	1.3372	22.89	050680	1.2248	28.06
050312	1.9924	27.26	050388	0.8404	22.89	050454	1.7486	28.83	050537	1.2836	22.42	050591	1.2395	24.04	050682	0.8984	37.06
050313	1.2089	22.01	050390	1.1935	25.41	050455	1.9528	20.23	050539	1.2990	20.92	050592	1.2596	21.85	050684	1.2854	22.35
050315	1.2679	24.87	050391	1.2246	19.09	050456	1.1464	20.62	050541	1.5705	34.58	050594	1.7218	30.50	050685	1.2160	32.57
050317		21.69	050392	0.9510	23.02	050457	1.6199	38.30	050542	1.0198	16.49	050597	1.2903	22.90	050686	1.2508	35.54
050320	1.2272	31.15	050393	1.4703	25.91	050464	1.7424	25.38	050543	0.8629	22.41	050598	1.2550	25.68	050688	1.1258	31.29
050324	2.0207	26.99	050394	1.5619	23.14	050468	1.5316	23.79	050545	0.7727	31.73	050599	1.5637	29.33	050689	1.4986	30.73
050325	1.2393	25.57	050396	1.6585	24.14	050469	1.0325	23.93	050546	0.6865	32.09	050601	1.4770	31.42	050690	1.3144	33.15
050327	1.6181	24.06	050397	0.8335	20.97	050470	1.0961	16.17	050547	0.8104	33.16	050603	1.3658	23.36	050693	1.2162	26.96
050329	1.2744	17.46	050401	0.9837	21.00	050471	1.6658	25.72	050548		35.76	050604	1.4187	34.21	050694	1.3336	23.23
050331	1.4044	22.28	050404	1.0558	17.60	050476	1.3077	22.66	050549	1.6508	27.33	050608	1.2767	18.25	050695	1.1842	21.16
050333	1.0599	19.76	050406	1.0536	18.88	050477	1.4892	28.58	050550	1.3328	24.79	050609	1.5732	35.23	050696	2.0674	27.90
050334	1.7234	34.42	050407	1.2790	29.97	050478	0.9611	24.58	050551	1.3155	25.61	050613	1.0324	26.17	050697	1.1678	21.16
050335	1.3895	23.50	050410	0.9752	17.68	050481	1.4495	28.11	050552	1.1761	22.65	050615	1.4612	23.96	050699	0.5929	20.44

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
050701	1.3041	19.00	060031	1.4940	21.26	060107	1.2629	12.04	080004	1.2728	23.94	100034	1.7330	18.15*	100081	1.0733	14.84
050704	1.0440	22.90	060032	1.4783	22.71	060109	1.2053		080006	1.3233	19.72	100035	1.6432	20.24	100082		18.78
050707	1.0969	26.27	060033	1.0888	15.91	070001	1.8220	26.01	080007	1.3638	21.08	100038	1.8869	23.47	100084	1.5856	22.70
050708	1.4624	22.78	060034	1.5456	21.79	070002	1.8248	26.29	090001	1.5805	21.77	100039	1.5107	21.54	100085		22.12
050709	1.2384	21.96	060036	1.1020	15.38	070003	1.1624	25.82	090002	1.2115	19.71	100040	1.7877	19.17	100086	1.2173	21.79
050710	1.3005	26.91	060037	0.9888	15.75	070004	1.2746	22.49	090003	1.3600	22.13	100043	1.2939	18.91	100087	1.8911	23.35
050713	0.8043	17.73	060038	0.8834	14.22	070005	1.4166	26.70	090004	1.8650	24.36	100044	1.3454	21.53	100088	1.6760	20.02
050714	1.2788	24.94	060041	0.8407	17.78	070006	1.3491	27.66	090005	1.3332	23.91	100045	1.3468	21.01	100090	1.3664	21.70
050717	1.3784	26.85	060042	0.9951	19.65	070007	1.3027	26.48	090006	1.3410	21.08	100046	1.3502	20.05	100092	1.5614	20.17
050718	0.8088	17.61	060043	0.8853	13.86	070008	1.2561	23.42	090007	1.5039	22.20	100047	1.8051	20.12	100093	1.6726	16.66
050719	2.5595	25.55	060044	1.3091	19.90	070009	1.1586	23.71	090008	1.4737	20.23	100048	0.9430	15.25	100098	1.0452	19.30
050720	0.8806		060046	1.0232	19.44	070010	1.6689	25.99	090010	1.1445	24.13	100049	1.1975	18.85	100099	1.1700	15.88
050721	1.3599		060047	1.0139	17.57	070011	1.3718	23.44	090011	2.1410	27.40	100050	1.2993	17.25	100102	1.0391	19.10
050722	1.1328		060049	1.3706	32.06	070012	1.2279	23.31	100001	1.5535	19.03	100051	1.3413	22.98	100103	0.9650	17.24
050723	1.1372		060050	1.2370	18.38	070015	1.4039	23.83	100002	1.3985	20.80	100052	1.3219	19.36	100105	1.4124	21.81
060001	1.6607	21.50	060052	1.0063	13.86	070016	1.4794	24.96	100004	0.9642	14.85	100053	1.1962	20.24	100106	1.0387	17.39
060003	1.2464	19.91	060053	0.9789	16.01	070017	1.4040	26.43	100006	1.6035	21.02*	100054	1.2561	22.69	100107	1.2762	20.19
060004	1.2407	23.03	060054	1.3802	22.95	070018	1.3593	28.13	100007	1.8823	22.81	100055	1.3620	18.09	100108	0.9784	20.56
060006	1.1971	19.51	060056	0.9290	18.32	070019	1.2555	25.73	100008	1.6963	20.53	100056	1.5305	25.90	100109	1.3755	17.03
060007	1.1130	17.69	060057	1.0415	26.56	070020	1.3599	24.18	100009	1.5188	21.35	100057	1.3391	20.24	100110	1.3848	21.16
060008	1.0591	18.10	060058	0.9435	16.62	070021	1.1984	25.36	100010	1.4760	21.92	100059	1.9893		100112	1.0418	
060009	1.5798	21.75	060060	0.8847	16.03	070022	1.8512	26.79	100012	1.6474	19.61	100060	1.7354	23.44	100113	1.7293	24.16
060010	1.6149	24.21	060062	0.8820	18.70	070024	1.3331	25.36	100014	1.4035	19.16	100061	1.4170	21.70	100114	1.3604	21.76
060011	1.3116	23.61	060064	1.4307	21.41	070025	1.8542	25.32	100015	1.4231	18.61	100062	1.7076	19.09	100117	1.2254	20.74
060012	1.4015		060065	1.3054	21.74	070027	1.3019	23.74	100017	1.6819	19.19	100063	1.2343	19.01	100118	1.1397	26.62
060013	1.3105	23.47	060066	0.9651	18.00	070028	1.5485	24.77	100018	1.5502	20.39	100067	1.3635	18.15	100121	1.1637	
060014	1.8362	22.91	060070	1.1094	17.42	070029	1.3317	22.18	100019	1.6468	20.97	100068	1.3245	20.28	100122	1.1574	19.42
060015	1.5978	21.07	060071	1.2312	17.84	070030	1.0954	29.05	100020	1.2541	21.53	100069	1.3151	16.83	100124	1.2712	17.13
060016	1.1378	16.78	060073	0.8801	16.02	070031	1.2789	23.88	100022	1.7844	26.79	100070	1.4642	16.75	100125	1.2053	18.95
060018	1.2592	20.41	060075	1.2325	24.22	070033	1.3762	30.60	100023	1.3041	20.33	100071	1.2406	17.56	100126	1.4299	19.79
060020	1.6920	18.53	060076	1.4509	20.14	070034	1.4300	29.61	100024	1.2288	22.07	100072	1.2476	20.90	100127	1.5688	20.16
060022	1.5334	21.14	060085	0.9227	14.79	070035	1.4153	23.19	100025	1.7128	18.78*	100073	1.7104	21.24	100128	2.2110	20.44
060023	1.6360	19.53	060088	1.0675	27.99	070036	1.7766	28.86	100026	1.6560	20.81	100075	1.5161	18.41	100129	1.2952	19.16
060024	1.6914	22.04	060090	0.8350	22.36	070038	0.9784		100027	0.9696	19.29	100076	1.3282	17.98	100130	1.2695	18.67
060027	1.6360	21.04	060096	1.2942	22.28	070039	0.9154	30.12	100028	1.2189	19.36	100077	1.3677	22.00	100131	1.3142	23.33
060028	1.5280	23.25	060100	1.5432	21.42	080001	1.6499	25.62	100029	1.2934	20.95	100078	1.0126	18.65	100132	1.2678	18.18
060029	0.8602	21.44	060103	1.3721	24.82	080002		19.77	100030	1.2240	21.95	100079	1.4734		100134	1.0026	15.71
060030	1.3103	20.76	060104	1.2589	22.24	080003	1.3355	22.29	100032	1.8440	19.74	100080	1.6017	22.16	100135	1.5395	18.96*

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ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
100137	1.2039	18.79	100204	1.5506	20.14	100256	2.0964	20.81	110018	1.1364	19.74	110069	1.2541	19.38	110120	1.0471	15.26
100138	0.9867	17.91	100206	1.3714	19.65	100258	1.6079	21.42	110020	1.2453	18.29	110070	1.1370	22.19	110121	1.1598	16.30
100139	1.0410	15.96	100208	1.3622	20.77	100259	1.3122	20.52	110023	1.3537	23.93	110071	1.0981	15.22	110122	1.3667	21.23
100140	1.1463	17.12	100209	1.4895	22.11	100260	1.4172	20.37	110024	1.3610	20.77	110072	0.9629	12.83	110124	1.1254	
100142	1.2539	19.68	100210	1.5739	21.65	100262	1.3754	20.04	110025	1.3340	19.95	110073	1.1550	15.45	110125	1.2699	20.18
100144		12.29	100211	1.3116	20.90	100264	1.3555	18.90	110026	1.1413	17.00	110074	1.5135	21.44	110127	0.9462	17.30
100146	0.9755	18.16	100212	1.6038	19.42	100265	1.3060	18.92	110027	1.1318	16.86	110075	1.3350	18.65	110128	1.2154	18.46
100147	1.0461	14.97	100213	1.5127	20.55	100266	1.3878	18.30	110028	1.7739	19.90	110076	1.4376	21.43	110129	1.6410	19.27
100150	1.3626	21.46	100217	1.2329	21.02	100267	1.3403	20.45	110029	1.3622	20.68	110078	1.7632	22.39	110130	0.9648	16.57
100151	1.7573	21.22*	100220	1.6372	20.56	100268	1.2059	23.94	110030	1.3111	18.77	110079	1.3823	21.18	110132	1.1773	16.45
100154	1.5564	20.23	100221	1.9727	17.44	100269	1.4284	21.71	110031	1.2248	19.24	110080	1.2814	18.48	110134	0.9264	12.58
100156	1.1115	19.26	100223	1.4609	20.02	100270	1.0078	13.04	110032	1.2322	15.77	110082	2.0916	23.91	110135	1.3458	17.75
100157	1.5744	22.68	100224	1.3095	20.28	100271	1.8579	20.42	110033	1.4387	22.45	110083	1.7825	23.23	110136	1.1662	21.44
100159	0.8689	10.28	100225	1.2952	20.71	100275	1.3926	21.00	110034	1.6681	19.65	110086	1.3511	18.60	110140	0.9171	18.29
100160	1.1972	20.56	100226	1.3762	19.94	100276	1.2174	22.64	110035	1.3958	19.44	110087	1.3976	21.91	110141	1.0114	13.25
100161	1.6930	22.48	100228	1.2631	21.29	100277	0.9851	22.71	110036	1.8407	17.51	110089	1.2177	18.67	110142	0.9250	14.88
100162	1.4197	19.80	100229	1.3076	19.76	100279	1.2484	20.03	110038	1.5125	17.87	110091	1.2450	19.53	110143	1.3856	20.20
100165		19.15	100230	1.3689	20.52	100280	1.3265	17.37	110039	1.3617	20.96	110092	1.0867	17.52	110144	1.0713	16.87
100166	1.4570	20.09	100231	1.6423	18.00	100281	1.2848	22.48	110040	1.0234	17.64	110093	0.9417		110146	1.1440	16.13
100167	1.4347	23.39	100232	1.2503	19.51	100282	1.0730	21.01	110041	1.1572	19.24	110094	0.9977	14.71	110149	1.1393	18.13
100168	1.3326	20.22	100234	1.3547	20.48	100284	1.1182		110042	1.1760	24.39	110095	1.3290	16.50	110150	1.3930	20.36
100169	1.8050	20.41	100235		17.41	100366	0.5957		110043	1.8283	20.17	110096	1.1208	16.85	110152	1.0312	15.40
100170	1.3538	18.70	100236	1.3938	20.17	110001	1.2994	19.34	110044	1.1327	16.51	110097	1.0167	16.21	110153	1.1318	19.28
100172	1.4356	14.62	100237	2.1470	22.13	110002	1.2790	17.23	110045	1.1495	20.33	110098	0.9545	17.24	110154	1.0059	15.15
100173	1.6941	18.70	100238	1.6304	19.77	110003	1.3398	18.41	110046	1.3087	20.23	110100	0.9897	18.72	110155	1.0125	15.66
100174	1.3537	26.64	100239	1.4050	21.58	110004	1.3361	19.98	110048	1.1241	16.43	110101	1.0025	11.06	110156	1.0322	15.18
100175	1.1222	17.45	100240	0.8726	20.71	110005	1.1325	18.20	110049	1.1587	16.18	110103	0.9633	15.15	110161	1.2930	21.74
100176	2.1358	23.33	100241	0.8330	15.16	110006	1.4064	21.07	110050	1.1060	21.16	110104	1.1311	16.19	110162	0.7571	
100177	1.3008	26.39	100242	1.4081	18.04	110007	1.6005	27.56	110051	1.0215	17.48	110105	1.3065	17.21	110163	1.5140	20.50
100179	1.7907	17.85	100243	1.3648	21.43	110008	1.1634	22.14	110054	1.4006		110107	1.9709	19.44	110164	1.4087	20.50
100180	1.4286	20.26	100244	1.3264	18.65	110009	1.1607	16.31	110056	1.0315	15.65	110108	0.9625	23.29	110165	1.5036	21.40
100181	1.2051	23.32	100246	1.4822	19.79	110010	2.1808	23.39	110059	1.1805	16.67	110109	1.1051	16.54	110166	1.4852	20.68
100183	1.2036	24.61	100248	1.5204	20.79	110011	1.1584	18.78	110061	1.0899	15.04	110111	1.2216	15.10	110168	1.7175	20.95
100187	1.4004	20.36	100249	1.2561	19.33	110013	1.0518	16.30	110062	0.9080	19.28	110112	1.0140	20.90	110169	1.2966	20.64
100189	1.3222	21.37	100252	1.2092	17.85	110014	0.9597	16.32	110063	1.0042	17.16	110113	1.0481	16.82	110171	1.6355	24.38
100191	1.3015	17.64	100253	1.3553	21.17	110015	1.1568	21.21	110064	1.4462	18.96	110114	1.1384	14.75	110172	1.4379	23.79
100199		21.79	100254	1.5509	19.15	110016	1.1898	23.96	110065	1.0364	15.25	110115	1.7009		110174	0.8945	14.10
100200	1.3088	22.58	100255	1.2584	23.81	110017	0.9476	13.78	110066	1.4927	21.10	110118	1.0955	23.51	110177	1.6242	20.68

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ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
110178		18.90	120009	1.0057	17.84	130026	1.1734	21.84	140025	1.0508	17.02	140070	1.1887	24.38	140121	1.3419	17.71
110179	1.1374	23.09	120010	1.7786	24.28	130027	0.9291	23.44	140026	1.1498	16.93	140074	0.9349	20.16	140122	1.5459	24.29
110181	0.9751	14.16	120011	1.4448	35.67	130028	1.2811	26.07	140027	1.2125	18.90	140075	1.2772	21.57	140124	1.1060	27.21*
110183	1.3534	23.55	120012	0.8988	23.92	130029	1.0949	18.84	140029	1.3319	22.54	140077	1.0509	17.54	140125	1.3141	18.28
110184	1.3226	22.20	120014	1.2487	23.30	130030	0.9563	19.23	140030	1.8578	21.75	140079	1.1963	23.68	140127	1.4113	20.21
110185	1.2365	16.97	120015	0.8200	48.18	130031	0.9559	18.68	140031	1.1664	19.90	140080	1.4883	21.22	140128	1.0088	19.99
110186	1.3170	17.36	120016	1.0310	52.50	130034	1.0449	17.70	140032	1.2580	18.16	140081	1.0321	16.97	140129	1.1860	18.45
110187	1.2613	20.12	120018	0.9098	32.43	130035	0.9055	19.68	140033	1.2931	24.30	140082	1.3063	22.30	140130	1.1985	18.29
110188	1.3286	25.40	120019	1.2769	23.15	130036	1.3872	14.05	140034	1.2076	19.47	140083	1.3317	19.64	140132	1.4693	23.48
110189	1.1100	22.08	120021	0.9952	26.79	130037	1.4342	18.96	140035	1.0669	16.10	140084	1.2544	20.98	140133	1.3805	21.21
110190	1.0680	18.87	120022	1.6672	21.83	130043	0.9501	16.51	140036	1.2546	18.82	140086	1.0728	18.71	140135	1.2660	17.24
110191	1.3128	20.20	120024	0.6619	51.59	130044	0.9331	18.32	140037	1.0534	13.12	140087	1.3629	16.12	140137	1.0603	17.26
110192	1.3985	21.64	120025		85.75	130045	0.9546	16.80	140038	1.0615	18.35	140088	1.7642	25.38	140138	0.9863	17.19
110193	1.2433	21.07	120026	1.2790	25.17	130048	1.0584	17.07	140040	1.1954	20.35	140089	1.2799	17.85	140139	1.0648	
110194	0.9213	15.45	120027	1.4784	24.56	130049	1.2594	20.47	140041	1.1947	18.85	140090	1.4459	23.88	140140	1.1302	17.82
110195	1.0290	14.03	120028	1.3724	27.53	130054	1.0083	17.36	140042	0.9820	15.62	140091	1.8712	21.06	140141	1.2260	17.74
110198	1.3135	23.96	130001	1.0337	19.01	130056	0.8268	18.65	140043	1.1608	19.67	140093	1.1358	19.69	140143	1.0788	19.39
110200	1.8356	17.49	130002	1.3192	16.76	130060	1.3135	22.21	140045	1.0035	16.35	140094	1.2582	21.72	140144	0.9808	21.98
110201	1.4260	20.49	130003	1.3082	21.63	130061		15.77	140046	1.3002	19.39	140095	1.3695	27.29	140145	1.1325	17.89
110203	0.9334	31.72	130005	1.3949	20.90	130062	0.7754	16.57	140047	1.1762	17.91	140097	0.9335	18.77	140146	1.0380	22.49
110204	0.7991	33.44	130006	1.8249	19.40	130063	1.6847	15.94	140048	1.3599	22.34	140100	1.3423	21.45	140147	1.2077	16.68
110205	1.0120	17.27	130007	1.6719	21.03	140001	1.2145	16.68	140049	1.6853	30.36	140101	1.1731	21.87	140148	1.8759	18.71
110207	0.9441	12.97	130008	0.9489	13.37	140002	1.2420	19.14	140051	1.4534	24.10	140102	1.0750	17.59	140150	1.5435	21.47
110208	0.9274	15.37	130009	0.9555	19.66	140003	1.0111	22.02	140052	1.2817	19.80	140103	1.3599	19.39	140151	0.9278	21.39
110209	0.6581	17.92	130010	0.9805	17.90	140004	1.1019	15.92	140053	2.0552	19.26	140105	1.2652	21.74	140152	1.1974	23.72
110211	0.9720	21.04	130011	1.2328	20.62	140005	0.9948	11.61	140054	1.3702	22.39	140107	0.9540	11.22	140155	1.3274	18.75
110212	1.0169	11.87	130012	0.9391	22.98	140007	1.4604	24.10	140055	0.9840	16.79	140108	1.3349	26.02	140158	1.3318	22.72*
110213		14.37	130013	1.3159	17.58	140008	1.4757	21.50	140058	1.3095	17.58	140109	1.1401	15.93	140160	1.1495	17.94
110215	1.1707	20.19	130014	1.2634	19.17	140010	1.3745	27.94	140059	1.1043	15.07	140110	1.1861	19.48	140161	1.1361	20.32
110216	1.6858		130015	0.8869	16.81	140011	1.1662	18.03	140061	1.1028	17.99	140112	1.0909	18.09	140162	1.8114	19.74
110217	1.0577		130016	0.9572	17.58	140012	1.2799	22.82	140062	1.2480	28.22	140113	1.5020	19.16	140164	1.4382	18.85
120001	1.7540	28.06	130017	1.0086	18.90	140013	1.5939	18.39	140063	1.4962	25.63	140114	1.3189	21.42	140165	1.1144	15.02
120002	1.2815	25.07	130018	1.4858	19.74	140014	1.1517	22.85	140064	1.2611	19.27	140115	1.2987	21.28	140166	1.1636	20.53
120003	1.0698	26.46	130019	1.1067	19.58	140015	1.2389	16.84	140065	1.4178	22.38	140116	1.2351	22.94	140167	1.1025	17.45
120004	1.2052	24.81	130021	1.1733	13.27	140016	1.0256	13.17	140066	1.1876	17.46	140117	1.5533	20.80	140168	1.2011	16.97
120005	1.2648	23.77	130022	1.2526	16.85	140018	1.3475	23.18	140067	1.7548	19.38	140118	1.7417	18.56	140170	1.1423	16.57
120006	1.2589	25.24	130024	1.1081	19.54	140019	1.0146	16.92	140068	1.4635	19.42	140119	1.7596	36.39	140171	0.9868	14.23
120007	1.7566	22.93	130025	1.1204	17.58	140024	0.9850	17.45	140069	0.9770	17.23	140120	1.3480	15.52	140172	1.7242	21.67

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
140173	0.9322	16.95	140231	1.5294	23.98	150011	1.1585	18.69	150054	1.2297	17.50	150101	1.0464	16.85	160018	0.9389	14.62
140174	1.5623	20.68	140233	1.7468	19.66	150012	1.5923	23.09	150056	1.8571	21.52	150102	1.0818	19.75	160020	1.1361	15.87
140176	1.2127	23.41	140234	1.2132	19.46	150013	1.0472	17.15	150057	2.1553	16.83	150103	1.0077	16.26	160021	1.0003	16.88
140177	1.3061	18.76	140236		7.62	150014	1.5418	23.54	150058	1.7023	20.85	150104	1.0517	17.66	160023	1.0324	15.34
140179	1.3324	21.32	140239	1.6466	18.88	150015	1.2954	23.63	150059	1.4207	21.78	150105	1.2897	21.89	160024	1.5676	19.78
140180	1.4295	23.76	140240	1.3571	23.79	150017	1.8547	18.80	150060	1.1522	13.12	150106	0.9748	13.64	160026	0.9777	19.11
140181	1.4247	20.78	140242	1.6250	24.18	150018	1.4847	20.43	150061	1.2127	17.74	150109	1.4461	18.76	160027	1.0597	16.98
140182	1.3455	22.20	140245	1.1866	13.48	150019	1.1071	10.53	150062	1.0030	20.80	150110	0.9738	17.33	160028	1.2297	20.24
140184	1.1885	17.82	140246	1.0445	13.54	150020	1.0754	15.40	150063	1.0279	34.54	150111	1.1107	21.80	160029	1.5420	20.79*
140185	1.4702	17.74	140250	1.2949	25.23	150021	1.6487	19.56	150064	1.1317	18.38	150112	1.2495	21.03	160030	1.3379	20.14
140186	1.3253	19.98	140251	1.3477	21.20	150022	1.1219	34.07	150065	1.1822	20.08	150113	1.2253	15.27	160031	1.0457	15.38
140187	1.6341	18.01	140252	1.4860	25.28	150023	1.5935	14.73	150066	0.9689	15.49	150114	0.9413	19.85	160032	1.1105	17.44
140188	0.9867	15.60	140253	1.1846	18.00	150024	1.3963	19.62	150067	1.1267	18.48	150115	1.2701	17.41	160033	1.8669	19.07
140189	1.2402	21.34	140258	1.5226	23.47	150025	1.4278	18.79	150069	1.1725	23.17	150122	1.1113	21.26	160034	1.1044	15.12
140190	1.0811	16.91	140271	0.9409	12.64	150026	1.2243	21.26	150070	0.9413	18.31	150123	1.0230	15.87	160035	0.8424	16.37
140191	1.3919	26.13	140275	1.2797	20.61	150027	1.0116	17.42	150071	1.1045	16.98	150124	1.1597	14.74	160036	0.9862	18.39
140193	0.9706	16.16	140276	2.0040	27.10	150029	1.3671	24.65	150072	1.1972	16.34	150125	1.4701	20.71	160037	1.0340	19.31
140197	1.2487	18.82	140280	1.4493	20.25	150030	1.2747	18.15	150073	1.0451	23.02	150126	1.4199	21.52	160039	1.0222	17.85
140199	1.0745	18.76	140281	1.6266	24.08*	150031	1.0534	17.46	150074	1.6460	16.94	150127	1.0387	19.74	160040	1.3519	18.37
140200	1.5277	21.88	140285	1.2589	18.35	150033	1.5650	22.26	150075	1.1630	15.84	150128	1.2584	18.51	160041	1.0093	16.98
140202	1.3151	22.27	140286	1.1210	20.51	150034	1.4363	22.15	150076	1.1131	23.62	150129	1.1500	24.16	160043	1.0518	15.92
140203	1.1800	20.13	140288	1.6143	25.24	150035	1.4780	20.51	150078	1.0215	19.68	150130	1.3292	18.47	160044	1.2213	16.95
140205	1.3543	18.68	140289	1.3225	17.22	150036	1.0024	20.93	150079	1.2053	19.15	150132	1.4176	16.04	160045	1.7235	18.57
140206	1.2300	21.33	140290	1.3084	21.01	150037	1.2352	22.08	150082	1.5235	17.66	150133	1.2309	16.95	160046	0.9295	14.58
140207	1.2556	22.46	140291	1.3210	25.18	150038	1.1475	21.39	150084	1.9332	19.57	150134	1.0730	19.85	160047	1.4782	18.51
140208	1.6993	26.05	140292	1.2043	21.65	150039	0.9631	18.85	150086	1.2064	19.17	150136	0.8719	19.83	160048	1.1574	14.86
140209	1.5937	18.32	140294	1.1361	17.83	150042	1.2981	18.47	150088	1.3253	17.15	150145		16.69	160049	0.9884	14.60
140210	1.1269	15.96	140300	1.5103	13.58	150043	1.1319	18.81	150089	1.5044	23.29	160001	1.2877	18.73	160050	1.0153	17.86
140211	1.2322	21.91	150001	1.0957	26.36	150044	1.2398	18.73	150090	1.4092	21.17	160002	1.0992	16.23	160051	1.0519	14.90
140213	1.2808	20.79	150002	1.4832	20.21	150045	1.1096	16.91	150091	1.0178	21.59	160003	1.0319	16.26	160052	0.9904	18.25
140215	0.9836	16.20	150003	1.7985	21.07	150046	1.4223	17.74	150092	1.0648	16.93	160005	1.1415	18.05	160054	1.0986	16.35
140217	1.3134	22.58	150004	1.5367	20.93	150047	1.5506	19.33	150094	1.0057	15.52	160007	1.0002	13.21	160055	0.9200	14.85
140218	0.9792	15.25	150005	1.1291	21.53	150048	1.1828	19.44	150095	1.0586	17.44	160008	1.1113	16.23	160056	1.1024	16.69
140220	1.1316	18.06	150006	1.2658	20.90	150049	1.1880	17.20	150096	0.9845	23.66	160009	1.1937	17.28	160057	1.2729	18.52
140223	1.5140	25.05	150007	1.1809	16.89	150050	1.0893	16.66	150097	1.0621	19.57	160012	0.9913	17.01	160058	1.8122	21.21
140224	1.3999	25.54	150008	1.3775	22.28	150051	1.4773	19.21	150098	1.1272	15.25	160013	1.2073	18.47	160060	1.0746	16.83
140228	1.6649	19.74	150009	1.3774	19.30	150052	1.0272	15.52	150099		22.57	160014	1.0396	16.11	160061	1.0826	18.11
140230	0.9221	18.09	150010	1.3388	22.49	150053	0.9660	19.45	150100	1.5702	16.30	160016	1.1903	19.84	160062	0.9842	19.19

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
160063	1.0211	17.04	160108	1.0646	16.13	170014	1.0176	18.04	170067	0.9801	14.98	170117	0.8927	17.16	180006	0.9735	11.69
160064	1.5659	20.89	160109	1.2001	17.69	170015	0.9416	16.75	170068	1.3082	15.29	170119	0.9504	16.19	180007	1.4008	17.39
160065	1.0393	17.21	160110	1.5342	19.35	170016	1.6722	19.13	170070	0.9589	14.39	170120	1.2807	17.79	180009	1.3429	21.59
160066	1.0697	17.30	160111	1.0094	15.13	170017	1.1999	18.00	170072	0.8337	12.80	170122	1.7035	20.23	180010	1.9313	19.24
160067	1.4185	17.99	160112	1.3703	17.16	170018	1.0352	15.54	170073	1.0589	18.34	170123	1.7174	22.72	180011	1.3328	17.34
160068	1.0723	18.58	160113	1.0596	14.91	170019	1.2559	15.27	170074	1.1480	17.64	170124	1.0059	11.13	180012	1.3887	18.78
160069	1.5079	20.15	160114	0.9688	16.14	170020	1.4610	17.54	170075	0.9131	12.46	170126	0.9279	12.96	180013	1.4581	18.45
160070	0.9292	17.26	160115	0.9783	16.20	170022	1.1251	18.92	170076	0.9228	14.59	170128	0.9649	15.17	180014	1.6406	21.36
160072	1.0487	15.01	160116	1.0496	17.15	170023	1.4054	19.39	170077	0.9011	14.33	170131		10.36	180016	1.2475	19.90
160073	0.9884	11.92	160117	1.3358	18.15	170024	1.0585	14.05	170079	1.0030	14.33	170133	1.0859	18.35	180017	1.2688	15.47
160074	0.9931	20.17	160118	1.0374	17.86	170025	1.1883	18.89	170080	1.0169	13.01	170134	0.8900	14.23	180018	1.2839	17.48
160075	1.1054	19.72	160120	0.9606	10.74	170026	1.0303	16.85	170081	0.9175	13.81	170137	1.1928	17.95	180019	1.1622	17.03
160076	1.0718	18.00	160122	1.0901	19.12	170027	1.2437	17.56	170082	0.9560	14.08	170139	0.9665	15.26	180020	1.0889	17.87
160077	1.1129	13.07	160124	1.2761	18.32	170030	0.9983	15.07	170084	0.8997	12.77	170142	1.3127		180021	1.0609	15.54
160079	1.4266	17.73	160126	1.0585	19.21	170031	0.8973	13.96	170085	0.8802	15.48	170143	1.0799	15.75	180023	0.8665	15.88
160080	1.1622	19.15	160129	0.9327	17.12	170032	1.0182	15.85	170086	1.6293	20.46	170144	1.4694	19.40	180024	1.2659	16.10
160081	1.1172	17.06	160130	1.0192	16.57	170033	1.3730	16.99	170088	0.9382	13.46	170145	1.0640	17.51	180025	1.1444	14.25
160082	1.8726	19.70	160131	1.0662	15.62	170034	1.0450	15.85	170089	0.8582	19.30	170146	1.4356	20.84	180026	1.1076	14.95
160083	1.6807	20.78	160134	0.9873	13.56	170035	0.9164	27.81	170090	1.0301	12.36	170147	1.1943	22.36	180027	1.2091	16.98
160085	1.0382	18.04	160135	0.9326	18.66	170038	0.8638	14.73	170093	0.9153	14.13	170148	1.2950	16.92	180028	1.0858	20.41
160086	0.9072	18.60	160138	1.0465	16.87	170039	1.0413	16.15	170094	0.9426	20.53	170150	1.1364	15.72	180029	1.2276	17.97
160088	1.0949	22.04	160140	1.1065	18.54	170040	1.6272	22.55	170095	1.0077	15.66	170151	1.0244	13.99	180030	1.1120	17.69
160089	1.2305	17.23	160142	0.9674	16.43	170041	1.0890	11.80	170097	0.9080	16.49	170152	0.9660	15.00	180031	1.0033	15.16
160090	1.0153	17.25	160143	1.1451	16.83	170044	0.9420	15.36	170098	1.1150	15.66	170160	0.9345	13.83	180032	1.0535	17.17
160091	0.9832	13.17	160145	1.0588	14.65	170045	1.0835	15.93	170099	1.2266	14.22	170164	0.9491	16.94	180033	1.0826	18.01
160092	1.0496	16.11	160146	1.4375	16.74	170049	1.4427	20.04	170101	0.8928	14.65	170166	1.0387	29.44	180034	1.0203	15.58
160093	1.0734	18.39	160147	1.2878	17.60	170051	0.9580	15.15	170102	1.0037	13.78	170171	1.0039	13.58	180035	1.5441	20.13
160094	1.1678	19.06	160151	0.9959	17.16	170052	1.0777	15.08	170103	1.2993	17.38	170175	1.3130	17.36	180036	1.1678	19.90
160095	1.0552	15.59	160152	1.0254	15.81	170053	0.9645	7.58	170104	1.4782	20.84	170176	1.5640	18.28	180037	1.2569	20.09
160097	1.1329	16.32	160153	1.7606	20.38	170054	1.0498	14.50	170105	1.1438	16.79	170180		16.66	180038	1.4853	16.72
160098	0.9348	16.38	170001	1.1892	18.19	170055	0.9154	17.21	170106	0.9683	19.62	170182	1.4966	22.23	180040	1.9519	19.66
160099	0.9635	13.95	170004	1.0619	15.12	170056	0.9143	17.81	170109	1.0107	17.48	170183	1.9776	20.35	180041	1.1638	15.15
160101	1.1114	18.80*	170006	1.2255	17.42	170057		13.18	170110	0.9667	17.19	170185	1.0648		180042	1.1410	17.00
160102	1.3545	19.03	170008	0.9966	15.02	170058	1.1530	19.53	170112	1.1397	14.39	170186	2.9004		180043	1.1423	16.20
160103	0.9429	17.82	170009	1.1527	21.21	170060	0.9519	18.32	170113	1.1136	14.08	180001	1.3209	18.11	180044	1.1999	18.56
160104	1.1628	18.93	170010	1.2814	19.07	170061	1.1127	16.08	170114	0.9557	14.68	180002	1.0407	18.14	180045	1.2684	18.05
160106	1.1341	17.49	170012	1.4501	17.92	170063	0.8893	14.04	170115	0.9614	12.92	180004	1.0444	17.73	180046	1.0406	18.99
160107	1.1097	18.29	170013	1.4698	18.88	170066	0.9044	16.60	170116	1.0952	17.14	180005	1.2267	21.28	180047	1.0352	16.86

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
180048	1.2342	18.46	180118	0.9295	15.86	190019	1.7402	18.62	190102	1.6401	20.15	190164	1.1634	15.23	200006	1.0504	18.34
180049	1.3081	16.49	180120	0.9692	16.34	190020	1.1626	17.72	190103	0.9168	13.07	190167	1.0900	16.76	200007	1.0330	18.66
180050	1.2654	18.12	180121	1.1361	15.43	190025	1.2831	19.10	190106	1.1527	18.83	190170	0.9043	14.70	200008	1.2740	21.38
180051	1.4125	16.45	180122	1.1059	18.99	190026	1.5272	18.44	190109	1.1514	16.53	190173	1.3080	24.21	200009	1.8712	22.24
180053	1.0502	15.97	180123	1.3658	20.19	190027	1.4898	17.13	190110	0.9774	16.24	190175	1.4262	19.62	200012	1.1265	18.52
180054	1.1186	19.95	180124	1.2790	17.32	190029	1.1610	16.93	190111	1.5886	19.89	190176	1.5572	17.58	200013	1.1611	18.17
180055	1.2850	15.59	180125	1.0624	20.54	190034	1.1761	17.00	190112	1.5532	21.17	190177	1.6845	18.82	200016	1.0177	17.92
180056	1.1852	17.20	180126	1.0687	12.92	190036	1.6914	21.71	190113	1.3710	12.58	190178	0.9686	11.07	200017		17.32
180058	0.9988	16.24	180127	1.2661	18.96	190037	0.9934	13.43	190114	1.0211	12.84	190182	1.1484	20.04	200018	1.1142	19.07
180059	0.8724	13.79	180128	1.0360	17.74	190039	1.4035	19.89	190115	1.2492	20.74	190183	1.1608	16.88	200019	1.2344	19.28
180063	1.1129	13.18	180129	0.9539	18.74	190040	1.3555	21.73	190116	1.2103	15.75	190184	0.9908	17.20	200020	1.1903	22.43
180064	1.2176	15.42	180130	1.4281	19.63	190041	1.5882	17.75	190118	0.9775	15.03	190185	1.3260	20.14	200021	1.1099	19.99
180065	1.0270	12.16	180132	1.2196	17.43	190043	1.0172	15.92	190120	1.0735	13.96	190186	0.9141	19.92	200023	0.8538	17.27
180066	1.0038	18.24	180133	1.3312	21.82	190044	1.1783	17.39	190122	1.2423	15.50	190190	0.9308	17.46	200024	1.4168	19.21
180067	1.9385	20.68	180134	1.0873	13.22	190045	1.5202	21.88	190124	1.6154	20.98	190191	1.1531	20.11	200025	1.1537	20.25
180069	1.1014	18.10	180136		17.39	190046	1.4126	20.14	190125	1.4919	20.70	190196	0.8609		200026	1.0690	18.52
180070	1.1376	13.21	180138	1.1657	19.49	190048	1.1250	16.99	190128	1.1739	20.51	190197	1.2088	19.68	200027	1.2369	19.36
180072	1.0863	17.77	180139	1.0346	18.72	190049	0.9687	17.37	190130	0.9784	15.30	190199	1.2281	18.40	200028	0.9575	19.74
180078	1.1264	21.12	180140	0.9789	16.82	190050	1.0589	16.49	190131	1.2667	20.98	190200	1.5588	22.26	200031	1.2493	16.02
180079	1.1866	15.56	180141	1.7255	20.90	190053	1.1156	13.27	190133	0.9987	14.11	190201	1.2230	18.72	200032	1.2939	19.16
180080	1.0600	16.51	180142	1.7748		190054	1.3643	19.36	190134		12.17	190202	1.2092		200033	1.8152	21.90
180087	1.2453	14.93	180143	1.6713		190059	0.9281	16.09	190135	1.4479	21.91	190203	1.4662	21.83	200034	1.2558	20.58
180088	1.6592	22.07*	190001	0.8917	17.68	190060	1.4169	14.80	190136	0.9830	12.44	190204	1.4704	21.56	200037	1.2094	18.89
180092	1.2198	18.36	190002	1.7001	19.30	190064	1.5448	20.60	190140	0.9599	14.39	190205	1.8433	21.67	200038	1.1364	23.44
180093	1.5278	17.11	190003	1.4207	23.28	190065	1.4650	21.78	190142	0.9520	16.28	190206	1.6335	21.98	200039	1.2510	19.45
180094	0.9855	13.76	190004	1.4551	17.90	190071	0.9282	14.64	190144	1.1809	16.17	190207	1.1343	20.80	200040	1.1934	20.04
180095	1.0831	14.12	190005	1.4422	17.32	190077	0.9399	15.78	190145	0.9721	15.63	190208	0.8369	20.10	200041	1.1042	18.91
180099	1.0837	13.64	190006	1.2264	19.86	190078	1.1615	15.05	190146	1.5435	21.42	190218	0.9927	20.20	200043	0.8145	16.72
180101	1.0972	18.29	190007	1.0824	14.29	190079	1.2231	18.24	190147	0.9621	14.58	190227	0.9050		200050	1.2217	20.64
180102	1.5083	18.20	190008	1.5961	18.88	190081	0.8914	15.42	190148	0.8903	16.95	190231	1.4047	15.84	200051	0.9584	22.34
180103	2.2793	19.89	190009	1.2260	15.36	190083	0.9797	20.21	190149	0.9671	18.01	190236	1.5081	19.42	200052	0.9893	17.42
180104	1.5805	18.96	190010	1.0669	20.37	190086	1.3593	15.90	190151	0.9894	14.98	190237	2.1390		200055	1.0118	19.20
180105	0.8843	15.54	190011	1.1347	15.95	190088	1.1898	21.26	190152	1.4623	22.25	190238	2.2526		200062	0.9345	17.38
180106	0.8753	14.35	190013	1.2718	17.15	190089	1.1204	13.22	190156	0.9339	15.85	190239	1.2930		200063	1.1802	20.06
180108	0.8405	15.06	190014	1.1193	17.29	190090	1.1154	16.92	190158	1.2518	20.67	190240	0.9632		200066	1.1361	17.50
180115	1.0497	16.94	190015	1.2874	18.63	190095	1.0285	16.45	190160	1.2121	17.17	200001	1.2976	18.08	210001	1.3753	20.93
180116	1.2350	18.02	190017	1.3229	16.35	190098	1.7160	20.77	190161	0.9821	15.57	200002	1.1110	19.55	210002	1.9621	20.25
180117	1.0918	17.92	190018	1.1762	15.87	190099	1.2031	20.10	190162	1.1565	20.73	200003	1.1109	16.91	210003	1.5525	20.33

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
210004	1.3195	24.36	210051	1.3690	22.45	220051	1.1868	21.31	220106	1.1892	26.07	230036	1.2472	24.18	230097	1.6653	20.93
210005	1.2864	21.67	210054	1.3457	22.34	220052	1.2382	23.63	220108	1.1615	22.00	230037	1.2306	20.59	230099	1.1348	21.28
210006	1.0880	18.94	210055	1.2832	29.26	220053	1.1723	19.51	220110	2.0549	29.09	230038	1.7327	23.44	230100	1.1966	16.01
210007	1.8468	23.14	210056	1.3525	19.36	220055		21.43	220111	1.2402	23.82	230040	1.1241	21.57	230101	1.0863	20.23
210008	1.2729	21.22	210057	1.3546	23.99	220057	1.2992	22.75	220116	1.8631	25.84	230041	1.3354	20.40	230103	0.9822	23.27
210009	1.9467	20.56	210058	1.4744	22.14	220058	1.0710	20.24	220119	1.2669	23.39	230042	1.1918	22.20	230104	1.6221	23.05
210010	1.0715	18.75	210059	1.2079	23.18	220060	1.1968	28.28	220123	1.0807	25.91	230046	1.9200	25.53	230105	1.7571	21.33
210011	1.3803	21.47	210060	1.2209		220062	0.5885	20.47	220126	1.1977	22.65	230047	1.3071	21.70	230106	1.1915	21.17
210012	1.7055	20.87	210061	1.1161	17.69	220063	1.2558	20.56	220133	0.6689	25.67	230053	1.5884	25.64	230107	0.9343	19.02
210013	1.3654	19.85	220001	1.3269	22.08	220064	1.2030	22.53	220135	1.2664	25.65	230054	1.8717	19.51*	230108	1.2425	19.20
210015	1.3139	16.61	220002	1.4321	24.08	220065	1.2552	20.32	220153	0.9380		230055	1.1122	20.94	230110	1.3541	18.68
210016	1.7837	23.94	220003	1.0434	17.22	220066	1.3453	20.85	220154	0.9464	28.01	230056	0.9356	16.37	230113		14.94
210017	1.2279	19.03	220006	1.3490	22.46	220067	1.2798	26.69	220162	1.5785		230058	1.0859	20.74	230115	0.9648	
210018	1.2197	22.29	220008	1.3304	24.54	220070	1.1694	20.22	220163	1.9703	29.66	230059	1.4308	20.01	230116	0.9124	16.62
210019	1.6598	19.32	220010	1.3469	21.75	220071	1.9010	25.57	220171	1.7354	24.62	230060	1.4109	19.95	230117	1.8491	25.05
210022	1.4512	22.69	220011	1.1263	26.26	220073	1.3545	25.63	230001	1.1432	19.90	230062	0.9267	17.80	230118	1.0884	21.44
210023	1.3946	23.38	220012	1.3271	32.27	220074	1.3030	25.89	230002	1.2587	22.56	230063		20.44	230119	1.3257	21.19
210024	1.7214	20.57	220015	1.1649	22.66	220075	1.8206	23.05	230003	1.1858	19.98	230065	1.3511	22.61	230120	1.1253	19.01
210025	1.2928	19.65	220016	1.3228	23.63	220076	1.1840	23.08	230004	1.6726	23.36	230066	1.3369	22.06	230121	1.1805	27.13
210026	1.3244	12.12	220017	1.3167	22.70	220077	1.8427	25.61*	230005	1.2682	18.73	230069	1.2097	22.94	230122		19.49
210027	1.2599	17.79	220019	1.1179	19.79	220079	0.7692	22.84	230006	1.0054	19.33	230070	1.5124	20.13	230124	1.1531	20.03
210028	1.1842	19.64	220020	1.1917	21.46	220080	1.3225	21.62	230007		15.55	230071	1.1479	22.91	230128	1.3896	23.94
210029	1.2433	21.54	220023		16.53	220081	0.9782	29.81	230012	0.7495	15.15	230072	1.2377	20.83	230130	1.6936	23.55
210030	1.2541	21.75	220024	1.1828	21.66	220082	1.3036	21.71	230013	1.3276	20.86	230075	1.4576	20.14	230132	1.3969	26.37
210031	1.1427	16.30	220025	1.1444	20.83	220083	1.1983	24.00	230015	1.0852	20.27	230076	1.4467	11.61	230133	1.2282	17.90
210032	1.1942	17.73	220028	1.4819		220084	1.3035	23.82	230017	1.6066	21.31	230077	1.9906	21.08	230135	1.1630	22.88
210033	1.2612	20.87	220029	1.1950	23.49	220086	1.7729	25.66	230019	1.5438	19.33	230078	1.1603	17.78	230137		19.23
210034	1.2813	15.89	220030	1.1353	18.82	220088	1.6330	23.64	230020	1.7453	20.09	230080	1.2280	19.98	230141	1.6463	22.21
210035	1.2819	20.33	220031	1.6735	30.43	220089	1.2429	23.45	230021	1.5029	19.19	230081	1.2131	19.14	230142	1.2627	22.09
210037	1.2115	18.47	220033	1.2509	20.39	220090	1.2954	22.01	230022	1.1988	18.83	230082	1.0447	18.75	230143	1.2367	16.42
210038	1.4383	23.59	220035	1.2874	21.73	220092	1.1430	18.41	230024	1.3911	23.77	230085	1.2776	20.32	230144	1.0633	25.13
210039	1.1984	20.05	220036	1.6121	24.49	220094		24.31*	230027	1.0489	14.78	230086	1.0381	19.66	230145	1.1070	20.26
210040	1.2826	21.53	220038	1.3121	22.89	220095	1.2192	21.76	230029	1.6419	19.40	230087	1.0390	19.12	230146	1.3342	20.23
210043	1.2928	19.68	220041	1.2370	23.80	220098	1.2597	21.61	230030	1.3297	17.62	230089	1.3188	22.15	230147	1.3684	22.01
210044	1.3691	22.62	220042	1.2292	25.51	220100	1.3682	26.04	230031	1.4203	19.50	230092	1.3544	19.48	230149	1.1978	21.83
210045	1.1048	11.63	220046	1.3433	22.93	220101	1.4111	25.92*	230032	1.7072	21.90	230093	1.1861	20.16	230151	1.4626	20.69
210048	1.3354	23.11	220049	1.2918	25.83	220104		24.12	230034	1.2389	19.05	230095	1.1826	17.38	230153	0.9925	19.39
210049	1.1471	19.08	220050	1.1650	22.48	220105	1.2463	21.49	230035	1.1329	17.78	230096	1.0658	23.34	230154	0.8789	15.63

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
230155	0.9751	18.09	230227	1.4814	23.71	240017	1.1398	18.89	240073	0.8879	16.11	240117	1.1109	18.24	240172	0.9255	20.08
230156	1.6603	24.37	230230	1.5512	22.26	240018	1.2441	21.24	240075	1.1861	21.28	240119	0.8309	22.23	240173	0.9557	17.49
230157	0.9068	20.49	230235	1.0232	17.08	240019	1.3349	22.33	240076	1.0872	21.88	240121	0.9259	24.40	240179	0.9770	17.50
230159		20.18	230236	1.3535	22.67	240020	1.1768	21.61	240077	0.9462	16.24	240122	0.9925	20.01	240184	0.9886	16.99
230162	0.9995	23.34	230239	1.1417	18.25	240021	0.9236	23.29	240078	1.5281	23.92	240123	1.0359	17.51	240187	1.2632	20.43
230165	1.8185	23.02	230241	1.1341	19.33	240022	1.1192	22.02	240079	0.9403	18.84	240124	0.9314	19.85	240193	0.9640	17.95
230167	1.7841	20.72	230244	1.3672	21.78	240023	0.9420	22.89	240080	1.6105	24.42	240125	0.9009	12.41	240196	0.7812	24.35
230169	1.3469	26.34	230253	0.9338	20.89	240025	1.1749	18.61	240082	1.0530	18.42	240127	1.0022	17.83	240200	0.9238	14.74
230171	0.9835	13.39	230254	1.2766	22.00	240027	1.0210	20.01	240083	1.2035	20.32	240128	1.0644	17.41	240205	0.9292	
230172	1.2283	20.86	230257	0.9939	15.84	240028		20.83	240084	1.3005	19.85	240129	0.9580	14.52	240206	0.8149	
230174	1.3677	22.99	230259	1.1232	22.49	240029	1.1435	21.22	240085	1.0275	23.20	240130	0.9422	14.96	240207	1.1578	24.11
230175	2.7123	16.89	230264	1.4272	17.17	240030	1.2664	18.86	240086	1.0112	17.33	240132	1.2570	23.11	240210	1.2505	24.22
230176	1.2163	21.80	230269	1.3192	23.46	240031	0.9686	19.92	240087	1.1033	19.19	240133	1.1703	19.21	240211	0.9918	32.21
230178	1.0059	17.57	230270	1.2256	20.47	240036	1.5890	22.35	240088	1.3578	21.94	240135	0.8382	17.41	250001	1.6021	18.45
230180	1.1010	15.89	230273	1.5809	22.95	240037	1.0055	19.46	240089	0.9769	21.38	240137	1.1273	21.80	250002	0.8541	17.34
230184	1.2708	19.06	230275	0.5165	50.25	240038	1.4979	25.33	240090	1.0655	22.31	240138	0.9458	14.38	250003	1.0110	18.09
230186	1.1092	20.02	230276	0.5142	26.55	240040	1.3172	20.64	240093	1.2556	18.80	240139	1.0006	18.72	250004	1.5571	18.12
230188	1.0835	15.77	230277	1.3004	23.05	240041	1.1233	20.33	240094	0.9185	21.77	240141	1.1332	23.81	250005	0.9376	13.03
230189	0.9337	16.70	230278		18.21	240043	1.2402	17.97	240096	1.0307	20.97	240142	1.0390	32.04	250006	0.9859	17.04
230190	0.9231	26.82	230279	0.6318	17.70	240044	1.1420	19.26	240097	1.0219	25.42	240143	0.8917	19.43	250007	1.2463	19.29
230191	0.9599	19.50	230280	1.6338	15.94	240045	1.1356	22.12	240098	0.9495	21.82	240144	1.0412	20.03	250008	1.0057	15.19
230193	1.2745	19.78	230283	1.6032	27.96	240047	1.5606	22.83	240099	1.0577	15.27	240145	0.9259	19.10	250009	1.3310	18.84
230195	1.3298	21.93	230284	1.5037		240050	1.2115	25.30	240100	1.2690	21.07	240146	0.9265	16.22	250010	0.9978	13.79
230197	1.3911	23.51	230285	1.0969		240051	0.9195	20.76	240101	1.1731	19.65	240148	0.9095	17.03	250012	0.9798	14.35
230199	1.0859	23.70	230286	1.0244		240052	1.2790	21.11	240102	0.8423	15.00	240150	0.7099	13.99	250015	0.9903	13.61
230201	1.2386	17.40	240001	1.5053	24.98	240053	1.4428	23.03	240103	1.2331	20.79	240152	1.0040	21.19	250017	1.0363	18.42
230204	1.4472	25.44	240002	1.7887	22.90	240056	1.2526	23.85	240104	1.1455	23.24	240153	1.0139	17.10	250018	0.8886	13.49
230205	0.9745	14.76	240004	1.5988	25.70	240057	1.8032	24.31	240105		16.38	240154	0.9857	18.22	250019	1.5534	16.82
230207	1.2289	20.64	240005	0.8805	20.16	240058	0.9257	16.89	240106	1.3842	23.53	240155	0.9366	20.91	250020	0.9611	13.59
230208	1.2219	16.10	240006	1.1279	25.67	240059	1.0530	24.81	240107	0.9555	21.20	240157	0.9767	14.25	250021	1.0083	9.63
230211	0.9313	19.89	240007	1.0807	18.68	240061	1.7533	27.26	240108	0.9445	17.03	240160	0.9988	15.79	250023	0.9090	15.05
230212	0.9634	23.33	240008	1.1244	23.87	240063	1.4523	23.85	240109	0.9456	13.75	240161	0.9772	15.88	250024	0.9307	13.65
230213	0.9759	16.03	240009	0.9532	17.06	240064	1.3396	23.87	240110	0.9132	21.28	240162	1.0664	16.85	250025	1.0566	19.09
230216	1.6156	20.38	240010	1.9585	23.66	240065	1.0358	13.49	240111	1.0063	18.14	240163	0.9663	20.49	250027	0.9856	16.49
230217	1.2423	21.45	240011	1.1592	21.67	240066	1.2749	23.44	240112	1.0169	15.88	240166	1.0852	17.28	250029	0.8437	16.90
230219	0.8448	19.63	240013	1.2614	21.05	240069	1.1553	20.04	240114	0.9025	17.42	240169		16.67	250030	0.9016	17.99
230222	1.3656	21.05	240014	1.0934	23.47	240071	1.1332	20.27	240115	1.5957	23.78	240170	1.0869	20.29	250031	1.1990	18.02
230223	1.2716	21.25	240016	1.3575	20.69	240072	0.9545	21.26	240116	0.8640	18.17	240171	0.9467	17.29	250032	1.2695	17.45

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
250033	0.9665	18.38	250085	0.9453	14.51	260001	1.7328	18.23	260053	1.1626	13.61	260113	1.2685	14.70	260191	1.3272	18.03
250034	1.5072	16.83	250088	0.9697	17.88	260002	1.3530	23.17	260054	1.3058	20.90	260115	1.1534	19.35	260193	1.2299	21.50
250035	0.8325	15.34	250089	1.0860	13.55	260003	1.1100	14.71	260055	0.9775	12.12	260116	1.0757	16.40	260195	1.1984	18.38
250036	0.9375	15.89	250093	1.1745	15.42	260004	0.9089	13.51	260057	1.0397	17.59	260119	1.1362	17.50	260197	1.2424	19.74
250037	0.9007	17.94	250094	1.3039	18.26	260005	1.5338	19.74	260059	1.2133	16.74	260120	1.1550		260198	1.2942	11.98
250038	0.9443	16.97	250095	0.9883	17.11	260006	1.5282	20.06	260061	1.0891	14.87	260122	1.0929	15.30	260200	1.1751	20.63
250039	1.0136	14.34	250096	1.2290	19.36	260008	0.9499	13.92	260062	1.1846	20.31	260123	0.9861	14.88	260205	1.5117	17.63
250040	1.3211	17.38	250097	1.2230	17.23	260009	1.2927	18.59	260063	1.0362	18.43	260127	1.1114	18.60	260206	3.5316	
250042	1.2334	16.05	250098	0.8744	13.40	260011	1.5623	19.26	260064	1.3131	16.78	260128	1.0236	13.32	270002	1.3162	44.27
250043	0.8710	17.08	250099	1.2374	14.87	260012	1.0117	14.51	260065	1.7689	18.52	260131	1.1656	17.87	270003	1.1746	22.07
250044	0.9690	16.33	250100	1.3062	17.43	260013	1.1288	16.32	260066	1.0195	15.27	260134	1.1677	16.46	270004	1.7430	19.01
250045	1.2069	22.09	250101	0.9519	18.64	260014	0.7243		260067	0.8996	14.47	260137	1.7546	16.17	270006	0.8758	19.99
250047	0.9759	14.07	250102	1.5081	24.36	260015	1.1812	12.16	260068	1.6771	20.30	260138	1.8734	22.92	270007	1.0195	11.79
250048	1.5789	16.97	250104	1.4611	18.26	260017	1.2006	17.07	260070	0.9995		260141	1.9634	17.74	270009	1.0859	16.59
250049	0.8831	11.67	250105	0.9051	14.69	260018	0.8929	12.20	260073	1.0504	14.43	260142	1.1199	17.59	270011	1.0198	21.09
250050	1.2031	14.43	250107	0.9189	15.46	260019	1.1495	18.99	260074	1.2867	19.19	260143	1.0676	13.23	270012	1.5757	19.99
250051	0.8618	9.35	250109	0.8763	25.32	260020	1.7727	20.61	260077	1.7892	18.78	260147	0.9506	14.13	270014	1.9162	19.21
250057	1.1763	16.08	250112	0.9711	15.56	260021	1.3792	22.26	260078	1.1333	15.76	260148	0.8693	11.90	270016	0.8704	22.89
250058	1.1829	15.74	250117	1.0317	16.23	260022	1.1787	17.37	260079	1.0014	14.70	260158	1.0756	12.38	270017	1.2561	21.18
250059	1.0700	16.32	250119	1.0871	15.37	260023	1.3615	16.77	260080	0.9746	13.71	260159	0.9760	20.66	270019	1.1190	13.59
250060	0.7470	12.98	250120	1.1576	15.36	260024	0.9362	15.50	260081	1.5753	21.21	260160	1.1133	16.07	270021	1.0770	17.94
250061	0.8374	11.63	250122	1.1737	18.95	260025	1.3046	15.65	260082	1.1317	16.12	260162	1.6557	19.57	270023	1.2707	22.76
250063	0.8479	13.48	250123	1.1742	19.05	260027	1.6840	21.42	260085	1.5453	20.70	260163	1.3105	16.49	270026	0.9368	18.46
250065	0.8667	12.92	250124	0.9029	13.18	260029	1.1627	21.05	260086	0.9260	14.49	260164	0.8816	15.12	270027	1.0309	14.19
250066	0.8903	15.84	250125	1.3322	20.86	260030	1.0962	13.80	260091	1.6732	20.15	260166	1.2190	20.18	270028	1.1098	21.40
250067	1.1545	16.43	250126	0.9695	18.54	260031	1.5501	19.66	260094	1.2045	18.25	260172	0.9495	15.87	270029	0.9229	18.11
250068	0.8249	13.84	250127	0.8232		260032	1.7853	20.29	260095	1.3972	20.06	260173	1.0138	12.92	270032	1.1140	18.64
250069	1.2727	18.15	250128	1.0249	14.06	260034	0.9597	17.87	260096	1.5336	23.21	260175	1.1555	17.11	270033	0.8100	19.19
250071	0.8816	14.92	250131	1.0314	13.07	260035	0.9708	13.18	260097	1.1343	16.62	260176	1.5702	27.03	270035	0.9569	17.35
250072	1.4249	18.33	250134	0.9404	17.05	260036	0.9895	16.89	260100	0.9519	15.98	260177	1.2853	21.37	270036	0.9056	17.61
250076		18.49	250136	0.9008	19.06	260039	1.0792	14.39	260102	0.9961	21.22	260178	1.5350	19.82	270039	1.0428	16.98
250077	0.9821	12.29	250138	1.2425	18.41	260040	1.6302	17.44	260103	1.3583	18.81	260179	1.6145	20.04	270040	1.1295	19.22
250078	1.5178	15.76	250141	1.2485	19.21	260042	1.0374	20.25	260104	1.6018	21.27	260180	1.6060	19.67	270041	1.1196	20.55
250079	0.8699	16.67	250145	0.8593	10.25	260044	0.9647	16.31	260105	1.8164	24.78	260183	1.6356	20.12	270044	1.0627	16.90
250081	1.2872	17.69	250146	0.9420	14.67	260047	1.5659	19.25*	260107	1.4601	19.97	260186	1.6413	19.40	270048	0.9841	18.45
250082	1.5718	16.26	250148	1.0949	18.17	260048	1.3267	20.28	260108	1.8703	19.52	260188	1.2121	21.03	270049	1.7313	22.63
250083	0.9060	14.31	250149	0.9679	13.29	260050	1.0056	16.12	260109	1.0531	13.99	260189	0.8331	11.39	270050	1.0847	20.97
250084	1.1566	17.10	250150	2.0233		260052	1.3582	18.14	260110	1.6714	17.91	260190	1.1997	18.53	270051	1.3361	20.49

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
270052	0.9741	12.27	280032	1.3356	19.31	280081	1.6620	20.30	290010	1.1158	15.80	300023	1.4296	22.11	310039	1.2730	22.22
270057	1.2837	21.25	280033	0.9923	15.85	280082	0.9945	14.40	290011	0.9723	21.94	300024	1.2962	20.30	310040	1.2258	23.99
270058	0.9710	15.73	280035	1.0577	16.59	280083	1.0399	12.40	290012	1.3585	21.97	300028	1.2814	17.48	310041	1.3094	25.01
270059	0.7762	14.76	280037	1.0080	18.19	280084	0.9594	12.68	290013	1.0146	18.41	300029	1.5954	24.05	310042	1.2556	23.41
270060	0.9641	15.55	280038	1.0720	17.42	280085		28.26	290014	1.0354	18.95	300033	1.0719	17.44	310043	1.1489	21.97
270063	1.0414	12.75	280039	1.0243	16.14	280088		20.40	290015	0.9487	20.30	300034	2.1195	23.66	310044	1.3189	21.75
270073	1.1955	15.45	280040	1.7205	19.77	280089	0.9483	18.66	290016	1.0947	14.65	310001	1.7546	26.77	310045	1.4622	28.58
270074	0.8908		280041	0.9366	16.53	280090		14.19	290019	1.3058	21.42	310002	1.8249	28.36	310047	1.3288	25.35
270075	0.9693		280042	1.0236	16.77	280091	1.0630	16.05	290020	0.9203	21.61	310003	1.3210	29.23	310048	1.2889	23.67
270076	0.8683		280043	1.0166	16.66	280092	1.0073	14.24	290021	1.6576	21.63	310005	1.3371	21.85	310049	1.2090	22.72
270079	0.9317	17.21	280045	1.0114	17.02	280094	0.9541	17.76	290022	1.6306	24.64	310006	1.2934	21.66	310050	1.3129	26.34
270080	1.0699	16.58	280046	1.0450	18.52	280097	1.0200	15.48	290027	0.9135	17.74	310008	1.3619	23.79	310051	1.4157	26.08*
270081	0.9728	16.39	280047	1.0745	18.27	280098	0.9297	13.55	290029	0.9152		310009	1.3152	23.74	310052	1.2478	22.98
270082	1.0783	18.16	280048	1.0610	16.33	280101	1.0304	14.87	290032	1.4454	23.48	310010	1.2651	20.32	310054	1.3220	26.30
270083	1.0150	19.07	280049	1.1349	19.24	280102		14.18	290038	0.8689	20.67	310011	1.2148	23.21	310057	1.2602	21.33
270084	0.9263	16.51	280050	0.9046	16.90	280104	0.9158	13.98	290039	1.3644	25.41	310012	1.6363	26.56	310058	1.2197	30.35
280001	1.0557	18.71	280051	0.9767	15.89	280105	1.3290	18.84	290041	1.2948		310013	1.3263	21.23	310060	1.2779	19.20
280003	2.1228	22.58*	280052	1.0544	14.16	280106	0.9666	16.56	290043	1.4491		310014	1.6471	28.00	310061	1.2311	23.49
280005	1.3911	19.32	280054	1.2274	20.85	280107	1.0640	13.33	300001	1.5554	22.14	310015	2.0193	27.30	310062		20.64
280009	1.7901	20.04*	280055	0.9476	13.58	280108	1.1057	17.60	300003	1.8803	23.06	310016	1.2898	24.39*	310063	1.3686	22.08
280010	0.8079	18.95	280056	0.8587	12.70	280109	0.9708	12.90	300005	1.2655	20.98	310017	1.3429	25.87	310064	1.3430	24.70
280011	0.8768	15.91	280057	0.9219	19.92	280110	0.9881	12.83	300006	1.1961	24.52	310018	1.1257	22.84	310067	1.3385	25.06
280013	1.7382	22.81	280058	1.1285	20.17	280111	1.3028	21.90	300007	1.1446	20.40	310019	1.6473	24.25*	310069	1.2386	23.76
280014	0.9200	15.96	280060	1.5681	19.50	280114	0.9367	15.72	300008	1.1612	20.93	310020	1.4225	24.31	310070	1.3761	27.69
280015	1.0018	17.64	280061	1.3988	17.70	280115	0.9545	16.88	300009	1.0464	18.19	310021	1.6597	23.61	310072	1.3532	21.85
280017	1.0449	14.21	280062	1.1403	14.59	280117	1.0304	17.87	300010	1.3190	19.46	310022	1.3046	21.41	310073	1.6573	28.85
280018	0.9921	15.13	280064	0.9605	16.39	280118	0.9357	16.92	300011	1.3302	22.50	310024	1.3477	24.32	310074	1.4056	23.87
280020	1.7888	20.08	280065	1.2545	19.22	280119	0.8719		300012	1.3253	24.79	310025	1.2381	18.76	310075	1.3357	23.38
280021	1.1400	17.24	280066	1.0204	11.70	280123	0.8405	13.83	300013	1.1165	19.29	310026	1.3365	23.63	310076	1.4753	30.10
280022	0.9370	18.44	280068	0.8544	9.49	280125	1.2273	16.22	300014	1.2247	20.55	310027	1.3219	22.09	310077	1.6035	25.23
280023	1.3771	26.74	280070	0.9519	18.80	290001	1.7178	22.90	300015	1.1975	20.88	310028	1.2719	23.49	310078	1.3589	23.89
280024	0.9485	15.18	280073	0.9819	17.42	290002	0.9215	17.84	300016	1.1982	23.78	310029	1.8571	23.94	310081	1.3168	22.21
280025	0.9383	15.67	280074	1.0434	18.35	290003	1.6796	22.95	300017	1.4335	21.87	310031	2.8403	26.51	310083	1.2103	23.94
280026	1.0401	16.77	280075	1.1198	15.92	290005	1.3125	19.51	300018	1.3143	21.69	310032	1.2791	24.12	310084	1.2859	27.04
280028	1.0585	17.37	280076	1.1016	15.21	290006	1.2307	22.32	300019	1.2071	21.29	310034	1.2926	23.36	310086	1.2463	24.33
280029	1.0970	25.16	280077	1.2267	19.63	290007	1.6281	29.82	300020	1.3598	22.23	310036	1.1781	20.26	310087	1.3346	20.70
280030	1.7561	26.00	280079	0.9470	11.35	290008	1.2008	20.66	300021	1.1372	18.76	310037	1.3747	27.75	310088	1.2268	22.45
280031	1.0339	13.87	280080	1.0743	15.90	290009	1.6408	22.71	300022	1.1054	18.51	310038	1.9781	28.46	310090	1.3844	23.91

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
310091	1.2517	23.00	320033	1.0638	26.26	330023	1.3016	24.27	330080	1.2842	25.95	330144	0.9522	14.39	330203	1.4111	20.78
310092	1.3584	20.63	320035	0.9774	24.63	330024	1.7844	34.32	330084	1.0907	18.01	330148	1.0299	16.94	330204	1.4201	23.30
310093	1.2391	22.44	320037	1.2031	17.03	330025	1.1211	16.21	330085	1.2368	20.69	330151	1.1139	16.23	330205	1.2435	20.58
310096	2.0482	25.16	320038	1.1836	16.87	330027	1.3863	35.44	330086	1.3292	31.59	330152	1.4515	30.60	330208	1.2195	26.21
310105	1.2274	25.59	320046	1.4747	18.46	330028	1.4173	28.26	330088	1.0439	25.99	330153	1.6740	18.33	330209	1.1902	24.06
310108	1.4130	22.68	320048	1.3028	20.04	330029	1.0092	18.84	330090	1.5195	19.51	330154	1.7674		330211	1.1966	19.69
310110	1.2397	21.84	320056	0.9389		330030	1.5314	18.37	330091	1.4009	19.10	330157	1.3658	22.45	330212	1.0327	21.77
310111	1.2775	21.11	320057	0.9771		330033	1.2412	18.75	330092	1.0031	12.95	330158	1.4573	25.94	330213	1.0949	20.71
310112	1.3142	23.67	320058	1.0242		330034		31.32	330094	1.2733	17.62	330159	1.2556	19.13	330214	1.8038	38.15
310113	1.2434	23.71	320059	1.0795		330036	1.2531	23.99	330095	1.2590	20.19	330160	1.4834	30.46	330215	1.1639	17.90
310115	1.2742	21.74	320060	0.9723		330037	1.1401	16.14	330096	1.1059	17.96	330162	1.3003	27.18	330218	1.1083	21.67
310116	1.3470	22.77	320061	1.2614		330038	1.0982	16.37	330097	1.1947	16.65	330163	1.2817	18.74	330219	1.5273	22.18
310118	1.3408	26.59	320062	0.8457		330041	1.2956	24.52	330100	1.0557	27.12	330164	1.3889	19.69	330221	1.4092	27.88
310119	1.7957	33.68	320063	1.2638	18.31	330043	1.2931	29.24	330101	1.7620	32.51	330166	1.0967	15.10	330222	1.2936	18.48
310120	1.1628	23.88	320065	1.1440	13.19	330044	1.2707	19.84	330102	1.3625	17.70	330167	1.7283	29.87	330223	1.0697	17.62
310528	1.4071		320067	0.9611	36.85	330045	1.3708	28.12	330103	1.2143	15.80	330169	1.4043	37.34	330224	1.2874	19.76
310529	1.4071		320068	0.8767	17.70	330046	1.4439	32.58	330104	1.3469	31.73	330171	1.2608	25.80	330225	1.1882	25.83
320001	1.5189	19.17	320069	0.9678	13.01	330047	1.2340	18.25	330106	1.6787	39.91	330175	1.1745	17.47	330226	1.3157	16.72
320002	1.3291	19.54	320070	0.9979		330048	1.2609	17.79	330107	1.2278	28.72	330177	0.9549	17.74	330229	1.2693	16.80
320003	1.1451	16.11	320074	1.1329	19.51	330049	1.1964	19.68	330108	1.2560	17.55	330179	0.8664	13.50	330230	1.2683	29.85
320004	1.2309	18.58	320079	1.2044	18.40	330053	1.2468	17.66	330111	1.0726	20.53	330180	1.2294	17.00	330231	1.0234	28.36
320005	1.3686	20.81	330001	1.1787	26.61	330055	1.6289	28.38	330114	0.9090	17.56	330181	1.3093	32.37	330232	1.2271	17.98
320006	1.4054	19.04	330002	1.3665	26.28	330056	1.3713	30.48	330115	1.1386	16.72	330182	2.5729	32.78*	330233	1.4766	32.79
320009	1.6991	18.32	330003	1.3553	17.37	330057	1.7160	18.70	330116	0.8466	16.53	330183	1.4643	20.09	330234	2.3667	35.75
320011	1.1645	20.22	330004	1.2760	21.83	330058	1.2882	17.41	330118		20.72	330184	1.3691	30.31	330235	1.1563	21.28
320012	1.0162	16.63	330005	1.6334	24.90	330059	1.5435	32.46	330119	1.6596	34.92	330185	1.2869	26.21	330236	1.4013	29.71
320013	1.2025	22.96	330006	1.3555	25.42	330061	1.2626	25.74	330121	1.0191	16.10	330188	1.2406	20.96	330238	1.2154	15.64
320014	1.0711	16.84	330007		19.07	330062	1.0915	19.99	330122	1.0256	20.86	330189	0.9157	15.13	330239	1.2083	17.52
320016	1.1680	21.02	330008	1.1472	19.45	330064	1.3542	33.20	330125	1.8707	16.09	330191	1.2920	18.50	330240	1.3457	23.38
320017	1.0879	18.64	330009	1.2474	30.66	330065	1.2488	20.01*	330126	1.2034	24.01	330193	1.4131	36.55	330241	2.0281	24.79
320018	1.4850	18.97	330010	1.3041	17.87	330066	1.3213	18.72	330127	1.3907	30.54	330194	1.8591	35.00	330242	1.3725	28.58
320019	1.4291	24.58	330011	1.2558	18.29	330067	1.3559	21.10	330128	1.2984	28.17	330195	1.6368	33.44	330245	1.6772	17.51
320021	1.7113	19.05	330012	1.2482	32.69	330072	1.3910	31.00	330132	1.1954	15.77	330196	1.3036	23.39	330246	1.3474	28.23
320022	1.1714	16.27	330013	2.0835	19.81	330073	1.1988	16.33	330133	1.4009	38.06	330197	1.0867	17.67	330247	0.9413	28.43
320023	0.9239	18.63	330014	1.3568	32.74	330074	1.2899	18.46	330135	1.1927	18.83	330198	1.4002	24.64	330249	1.1691	16.36
320030	1.1665	16.78	330016	1.0288	16.92	330075	1.0735	17.23	330136	1.3316	18.01	330199	1.3195	22.94	330250	1.3149	19.69
320031	0.9716	19.85	330019	1.3296	35.98	330078	1.4101	16.84	330140	1.7797	19.07	330201	1.6150	33.45*	330254	1.3228	16.35
320032	0.9893	19.25	330020	1.0404	16.37	330079	1.1665	16.96	330141	1.3350	26.72	330202	1.2994	43.79	330258	1.2266	29.74

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
330259	1.4440	25.68	330387	0.9061		340030	2.0506	21.18	340087	1.1029	17.47	340141	1.6896	21.50	350018	1.0477	15.87
330261	1.2036	25.82	330389	1.8456	30.47	340031	0.9217	14.73	340088	1.3517	21.53	340142	1.1644	17.19	350019	1.6646	22.51
330263	0.9771	20.75	330390	1.3632	31.08	340032	1.4561	19.60	340089	0.9792	13.86	340143	1.4585	21.46	350021	1.0506	13.29
330264	1.1710	23.22	330393	1.8344	26.59	340034	1.2442		340090	1.1480	17.21	340144	1.2422	21.13	350023	0.9937	16.37
330265	1.3028	18.55	330394	1.5311	19.26	340035	1.0676	20.68	340091	1.6245	20.66	340145	1.3102	20.25	350024	0.9655	15.51
330267	1.4366	24.52	330395	1.3433	32.84	340036	1.0915	18.26	340093	1.0273	16.72	340146	1.1826	16.64	350025	0.9338	17.21
330268	0.9345	13.14	330396	1.2143	26.26	340037	1.1047	16.93	340094	1.3767	19.07	340147	1.2064	19.64	350027	0.9560	16.01
330270	1.9596	34.74	330397	1.3009	32.83	340038	1.0927	17.57	340096	1.1847	17.83	340148	1.2816	18.61	350029	0.8521	12.00
330273	1.3019	23.20	330398		28.92	340039	1.2681	20.71	340097	1.1371	19.16	340151	1.1870	16.79	350030	1.0714	17.73
330275	1.9172	18.10	330399	1.2710	32.22	340040	1.7843	20.51	340098	1.5932	21.67	340153	1.8584	20.83	350033	0.9207	14.94
330276	1.2311	18.49	330400	0.8821		340041	1.2060	15.24	340099	1.0861	16.99	340155	1.4055	20.67*	350034	0.9218	18.84
330277	1.1123	18.34	340001	1.4099	15.48*	340042	1.2316	17.03	340101	1.0110	14.00	340156	0.8347		350035	0.9248	10.65
330279	1.3744	19.99	340002	1.6734	20.68	340044	1.0595	19.39	340104	0.8826	13.05	340158	1.0371	18.08	350038	1.0716	17.98
330285	1.8516	23.30	340003	1.0955	20.60	340045	0.9604	13.85	340105	1.4831	20.64	340159	1.1728	17.62	350039	0.9588	17.10
330286	1.2784	26.86	340004	1.4532	18.52	340047	1.8711	20.38	340106	1.1165	17.72	340160	1.0910	16.55	350041	1.1001	14.82
330290	1.7526	33.26	340005	1.0277	16.15	340049	0.7283	20.73	340107	1.2067	18.11	340162		14.35	350042	1.0451	19.25
330293	1.1727	16.87	340006	0.9684	16.67	340050	1.1208	20.25	340109	1.3127	18.78	340164	1.3481	21.39	350043	1.5489	17.03
330304	1.2306	26.84	340007	1.1562	17.36	340051	1.2485	16.57	340111	1.0645	16.35	340166	1.3030	20.05	350044	0.8822	10.34
330306	1.3142	27.41	340008	1.1447	20.88	340052	1.0014	23.31	340112	0.9920	14.32	340168	0.5101	15.34	350047	0.9607	13.91
330307	1.2306	21.19	340009		20.60	340053	1.5873	21.07	340113	1.8651	21.36	340171	1.1455	21.61	350049	1.1631	15.75
330314	1.3597	25.25	340010	1.3362	18.41	340054	1.1409	15.70	340114	1.5493	21.34	340173	1.2098	19.35	350050	0.8466	11.60
330316	1.3133	27.61	340011	1.1290	13.66	340055	1.2627	19.89	340115	1.5715	19.90	350001	0.9882	13.34	350051	0.9311	17.61
330327	0.8648	16.46	340012	1.2311	19.16	340060	1.0869	19.05	340116	1.8253	20.06	350002	1.8110	17.82	350053	1.0154	17.09
330331	1.3086	31.62	340013	1.2510	21.14	340061	1.7329	21.74	340119	1.2141	18.16	350003	1.2256	18.56	350055	1.0230	14.75
330332	1.2568	27.69	340014	1.5229	20.55	340063	1.0093	17.48	340120	1.0408	15.33	350004	1.9049	20.76	350056	0.9278	15.07
330333	1.2909		340015	1.2754	19.82	340064	1.1300	21.16	340121	1.0749	16.38	350005	1.0401	15.81	350058	0.9833	15.65
330336	1.2324	29.77	340016	1.1207	17.78	340065	1.2243	18.04	340123	1.1175	16.97	350006	1.5547	18.59	350060	0.8490	10.37
330338	1.1705	23.14	340017	1.2071	20.35	340067	0.9991	19.38	340124	1.0808	15.63	350007	0.8587	13.77	350061	1.0027	15.49
330339	0.8910	20.01	340018	1.0804	14.12	340068	1.1715	16.63	340125	1.4253	19.73	350008	1.1613	17.76	350063	0.9667	
330340	1.1929	28.86	340019	0.9785	15.15	340069	1.7761	21.12	340126	1.3013	18.83	350009	1.1136	19.53	350064	0.7555	
330350	1.6581	31.05	340020	1.1779	18.67	340070	1.2898	19.94	340127	1.1956	20.54	350010	1.0118	18.31	350069	1.2802	
330353	1.3482	32.30	340021	1.2520	19.99	340071	1.0832	17.14	340129	1.2476	20.48	350011	1.8866	18.31	360001	1.2935	16.77
330354	1.6409		340022	1.0739	17.90	340072	1.2082	17.04	340130	1.2840	19.91	350012	1.1412	11.47	360002	1.1402	18.13
330357	1.3536	38.13	340023	1.3875	18.19	340073	1.2988	22.21	340131	1.4394	19.86	350013	1.0380	16.64	360003	1.6873	
330372	1.2414	29.34	340024	1.1973	17.69	340075	1.1577	19.47	340132	1.3414	17.41	350014	0.9712	15.08	360006	1.9146	21.90
330381	1.2242	31.05	340025	1.1953	17.54	340080		23.28	340133	1.0261	16.60	350015	1.7387	16.88	360007	1.0265	18.39
330385	1.2649		340027	1.1839	18.21	340084	1.0709	17.68	340137	1.0783	34.86	350016		10.78	360008	1.3490	18.86
330386	1.1312	17.72	340028	1.5757	18.35	340085	1.1718	17.38	340138	1.1288	24.83	350017	1.2958	17.88	360009	1.5361	18.98

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
360010	1.2334	15.17	360055	1.3525	21.56	360098	1.5062	19.91	360150	1.3685	21.12	360213	1.2083	19.69	370032	1.5629	18.35
360011	1.3423	19.52	360056	1.4041	16.61	360099	1.0245	18.71	360151	1.4074	16.67	360218	1.2975	19.08	370033	1.0525	13.98
360012	1.3342	20.51	360057	1.0483	15.11	360100	1.2130	18.29	360152	1.5163	20.85	360230	1.4929	21.98	370034	1.2289	15.81
360013	1.1575	20.87	360058	1.1193	18.82	360101	1.3243	21.48	360153	1.1651	15.68	360231	1.1033	13.04	370035		25.56
360014	1.1008	21.00	360059	1.5947	19.06	360102	1.2553	19.46	360154	1.0086	14.51	360234	1.3213	36.08	370036	0.9960	12.53
360016	1.5836	16.64	360062	1.4230	20.87	360106	1.1940	19.11	360155	1.4647	22.60	360236	1.2715	17.61	370037	1.7645	16.78
360017	1.9251	21.81	360063	1.1702	18.75	360107	1.1811	19.80	360156	1.2202	16.78	360239	1.3395	20.28	370038	0.9615	13.46
360018	1.6721	22.56	360064	1.6012	20.51	360108	1.0338	18.15	360159	1.1602	20.40	360241	0.4317	24.60	370039	1.1425	15.52
360019	1.2060	18.79	360065	1.2487	20.23	360109	1.1111	20.44	360161	1.3892	19.23	360242	1.8217		370040	1.0073	15.19
360020	1.5186	25.81	360066	1.6090	22.67	360112	1.8536	22.69	360162	0.7891		360243		14.87	370041	0.9018	17.04
360024	1.2682	20.07	360067	1.0787	15.64	360113	1.2901	24.24	360163	1.8340	20.69	360245	0.6949	16.46	370042	0.8507	15.10
360025	1.3835	20.15	360068	1.8270	21.31	360114	1.0970	17.88	360165	1.1673	18.36	360247	0.4151		370043	0.9540	16.24
360026	1.3585	18.36	360069	1.1756	16.83	360115	1.3870	18.68	360166		18.73	360252	1.1998		370045	0.9814	10.36
360027	1.4749	21.12	360070	1.7350	17.47	360116	1.2625	19.25	360170	1.3600	24.15	370001	1.7264	19.57	370046	0.9928	20.54
360028	1.4691	17.36	360071	1.3047	17.52	360118	1.4264	19.53	360172	1.3346	18.64	370002	1.3068	14.87	370047	1.3957	16.87
360029	1.1472	18.76	360072	1.2218	18.01	360121	1.1630	30.53	360174	1.2905	20.06	370004	1.2174	19.80	370048	1.2000	18.48
360030	1.2350	17.59	360074	1.2811	21.16*	360123	1.3141	20.40	360175	1.2197	21.34	370005	0.8524	15.29	370049	1.2853	21.09
360031	1.2603	19.79	360075	1.3381	22.47	360125	1.2270	19.16	360176	1.1301	16.04	370006	1.1483	16.78	370051	0.9589	12.40
360032	1.1946	18.86	360076	1.3683	20.86	360126	1.2293	19.00	360177	1.1801	19.08	370007	1.0950	15.72	370054	1.2822	17.01
360034	1.2043	14.98	360077	1.5732	21.19	360127	1.1664	17.47	360178	1.2352	18.97	370008	1.4079	16.80	370056	1.6437	18.66
360035	1.6355	20.58	360078	1.2570	21.56	360128	1.2319	16.16	360179	1.4850	21.22	370011	1.0145	15.43	370057	1.0945	17.13
360036	1.2488	20.30	360079	1.9036	22.23	360129	0.9283	15.88	360180	2.1826	22.23*	370012	0.9599	11.91	370059	1.0654	18.46
360037	1.7944	23.08	360080	1.1484	17.61	360130	1.0412	16.93	360184		21.79	370013	1.8371	19.53	370060	1.0384	16.80
360038	1.6196	21.78	360081	1.3684	21.28	360131	1.2850	19.50	360185	1.2317	18.85	370014	1.1749	20.77	370063	1.2088	15.05
360039	1.3097	18.83	360082	1.2761	23.10	360132	1.3760	20.03	360186	1.0135	18.61	370015	1.0935	17.22	370064	0.8983	11.00
360040	1.2276	17.89	360084	1.5193	20.69	360133	1.5665	20.10*	360187	1.4773	18.71	370016	1.3381	19.61	370065	0.9824	17.06
360041	1.3560	19.78	360085	1.9661	22.00	360134	1.6855	20.68	360188	0.9369	17.38	370017		12.76	370071	1.0039	16.32
360042	1.1141	17.27	360086	1.5020	19.57	360136	1.0046	17.87	360189	1.0455	18.17	370018	1.3295	18.76	370072	0.8630	14.74
360044	1.2324	17.06	360087	1.5437	20.60	360137	1.7667	20.11	360192	1.3219	21.58	370019	1.3153	14.28	370076	1.2066	13.63
360045	1.4084	22.54	360088	1.3352	24.84	360140	0.9480	20.62	360194	1.1997	17.35	370020	1.2263	14.57	370078	1.5996	20.02
360046	1.1656	20.48	360089	1.2093	18.39	360141	1.6729	23.15	360195	1.1098	20.08	370021	0.8554	12.05	370079	0.9794	16.90
360047	1.1027	17.19	360090	1.2546	21.08	360142	1.0190	17.06	360197	1.1044	20.17	370022	1.2696	17.46	370080	0.9639	14.51
360048	1.8242	22.62	360091	1.2937	21.57	360143	1.3588	20.31	360200	0.9555	17.15	370023	1.2643	17.94	370082	0.8241	14.03
360049	1.2121	20.56	360092	1.1341	20.86	360144	1.3417	23.25	360203	1.0978	16.41	370025	1.3035	17.61	370083	0.9353	13.39
360050	1.1495	13.14	360093	1.0964	19.33	360145	1.7463	19.55	360204	1.0462	22.32	370026	1.5025	18.47	370084	1.0542	24.69
360051	1.6201	20.97	360094	1.3416	19.07	360147	1.2667	16.80	360210	1.1429	21.12	370028	1.9017	18.46	370085	0.9464	11.80
360052	1.6225	19.69*	360095	1.3125	20.55	360148	1.1127	19.79	360211	1.2930	20.20	370029	1.1722	16.56	370086	1.1221	15.67
360054	1.2007		360096	1.0795	18.38	360149		20.10	360212	1.3331	21.22	370030	1.1316	16.72	370089	1.2271	16.25

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
370091	1.6044	21.70	370170	1.0541		380021	1.2503	21.19	380083	1.1471	22.40	390037	1.4185	21.15	390080	1.3019	19.11
370092	1.0139	14.98	370171	0.9971		380022	1.1688	22.92	380084	1.2453	24.42	390039	1.1907	17.26	390081	1.2462	25.01
370093	1.8117	18.49	370172	0.8396		380023	1.1761	20.72	380087	1.2474	16.58	390040	1.0209	16.06	390083	1.1651	
370094	1.4127	18.10	370173	1.1247		380025	1.3346	26.40	380088	0.9247	24.74	390041	1.2732	20.03	390084	1.1987	16.59
370095	0.9763	12.64	370174	0.9543		380026	1.0945	20.70	380089	1.2394	19.53	390042	1.5063	22.88	390086	1.1480	18.59
370097	1.2818	23.54	370176	1.2074	16.06	380027	1.2669	20.98	380090	1.3238	29.26	390043	1.1749	17.33	390088	1.3842	23.80
370099	1.0947	15.47	370177	0.9524	11.37	380029	1.1922	19.64	380091	1.2535	27.86	390044	1.6322	20.34	390090	1.8116	21.65
370100	0.9115	14.22	370178	1.0189	10.66	380031	0.9315	24.67	390001	1.5417	19.33	390045	1.6031	18.66	390091	1.1333	18.17
370103	0.9543	19.40	370179	0.8885	18.46	380033	1.7553	25.24	390002	1.3557	20.92	390046	1.5702	20.80	390093	1.1630	17.97
370105	1.9099	21.76	370180	0.9075		380035	1.2499	23.10	390003	1.2310	16.88	390047	1.5521	19.19	390095	1.2468	16.33
370106	1.5203	18.67	370183	1.0814	10.31	380036		28.46	390004	1.3896	19.29*	390048	1.1545	19.22	390096	1.4929	19.13
370108	0.9726	12.38	370186	0.9477	13.67	380037	1.2582	22.27	390005	1.1046	17.71	390049	1.5575	20.92	390097	1.2575	24.17
370112	1.0891	15.36	370190	1.5098	14.13	380038	1.3126	26.31	390006	1.8361	20.28	390050	2.1143	22.95	390100	1.6304	20.62*
370113	1.1543	16.46	370192	1.3555	18.46	380039	1.2777	23.40	390007	1.1621	17.36	390051	2.1193	20.70	390101	1.2165	18.08
370114	1.5781	16.55	370196	0.8606		380040	1.2192	27.41	390008	1.1623	18.07	390052	1.1748	21.01	390102	1.3785	16.42
370121	1.0688	23.09	370198		21.31	380042	0.9475	21.58	390009	1.7844	20.50	390054	1.2301	17.82	390103	1.1339	18.55
370122	0.9493	15.36	370199	0.8639		380047	1.6760	23.15	390010	1.2242	17.59	390055	1.8787	23.77	390104	1.0108	16.05
370123	1.3885	19.46	370200	1.1197		380048	0.9881	17.75	390011	1.3623	18.24	390056	1.1528	17.84	390106	1.0782	16.67
370125	0.9138	15.90	370201	1.5239		380050	1.4244	20.47	390012	1.1580	20.78	390057	1.2898	20.18	390107	1.4339	19.48
370126	1.0242	25.10	370202	1.6312		380051	1.6019	22.51	390013	1.2035	19.41	390058	1.3431	19.88	390108	1.3803	20.88
370131	0.8213	17.84	370203	0.9571		380052	1.2343	19.44	390015	1.1147	13.13	390060		20.71	390109	1.1779	16.54
370133	1.0895	11.12	380001	1.2454	20.48	380056	1.1446	19.64	390016	1.2102	17.11	390061	1.4576	21.41	390110	1.6090	24.45
370138	0.9855	16.51	380002	1.2140	24.49	380060	1.4009	23.54	390017	1.1623		390062	1.1875	16.79	390111	1.9566	28.83
370139	0.9845	14.92	380003	1.1372	22.04	380061	1.5403	22.40	390018	1.2433	21.49	390063	1.8778	20.12	390112	1.2223	15.02
370140	1.0484	16.50	380004	1.7746	23.06	380062	1.0568	22.42	390019	1.0956	16.74	390065	1.2180	20.06	390113	1.2382	19.41
370141	1.2715	18.56	380005	1.1564	24.14	380063		20.41	390022	1.2626	21.66	390066	1.2689	20.00	390114	1.1908	19.68
370146	1.0376	13.04	380006	1.2218	21.43	380064	1.2399	20.40	390023	1.2740	22.66	390067	1.7230	21.06	390115	1.3884	23.13
370148	1.4798	21.23	380007	1.8133	24.88	380065	1.3760	29.90	390024	1.1950	25.28	390068	1.3359	18.38	390116	1.3141	22.01
370149	1.3531	16.29	380008	1.1193	20.81	380066	1.2342	22.84	390025	0.4914	15.62	390069	1.2272	19.76	390117	1.1927	17.96
370153	1.1109	18.06	380009	1.9155	23.82	380068		22.78	390026	1.2536	22.40	390070	1.3908	21.09	390118	1.2266	18.64
370154	0.9997	15.74	380010	1.0883	24.16	380069	0.9663	19.83	390027	1.6725	26.80	390071	1.0710	16.06	390119	1.3509	18.60
370156	1.0546	14.03	380011	1.1283	21.90	380070	1.2440	27.97	390028	1.8243	22.89	390072	1.0686	15.67	390121	1.3954	19.72
370158	0.9813	15.80	380013	1.1981	18.76	380071	1.2939	22.86	390029	2.0480	21.66	390073	1.6453	20.59	390122	1.0559	17.34
370159	1.2126	35.75	380014	1.6849	24.82	380072	0.9643	19.16	390030	1.3037	18.20	390074	1.2044	18.56	390123	1.2538	20.93
370163	0.9443	17.72	380017	1.8298	26.13	380075	1.3986	22.53	390031	1.1843	19.32	390075	0.8141	17.64	390125	1.2810	16.97
370165	1.1288	13.20	380018	1.8417	22.48	380078	0.9868	20.43	390032	1.2292	17.67	390076	1.2336	20.37	390126		20.74
370166	1.0969	17.29	380019	1.2490	22.52	380081	0.9945	21.77	390035	1.2915	19.92	390078	1.1636	19.40	390127	1.2380	21.81
370169	1.0537	12.64	380020	1.4433	20.31	380082	1.2817	22.26	390036	1.4804	20.06*	390079	1.7957	18.35	390128	1.2390	21.27

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
390130	1.1414	17.70	390184	1.1496	20.78	390246	1.1346	20.47	400013	1.2447	8.46	400122	1.0349	8.19	420039	1.1396	15.91
390131	1.3543	16.23	390185	1.1762	18.74	390247	1.0155	24.31	400014	1.3938	9.55	400123	1.2661	7.81	420043	1.1828	19.55
390132	1.3454	21.19	390189	1.1613	19.37	390249	0.9448	12.79	400015	1.5592	8.89	400124	2.9225	12.10	420048	1.2223	18.68
390133	1.7892	23.17*	390191	1.1886	16.46	390256	1.8684	21.09	400016	1.3398	13.29	400125	1.0767		420049	1.2086	17.82
390135	1.2544	21.45	390192	1.1512	16.71	390258	1.4919	21.98	400017	1.2238		410001	1.3880	23.40	420051	1.5733	19.54
390136	1.1034	17.01	390193	1.2810	17.13	390260	1.1989	18.22	400018	1.2832	10.51	410004	1.2965	22.64	420053	1.1080	17.15
390137	1.4923	17.09	390194	1.2385	21.28	390262	1.9292	18.30	400019	1.5231	10.43	410005	1.2923	23.48	420054	1.2667	18.36
390138	1.3158	19.45	390195	1.8209	23.96	390263	1.3520	18.74	400021	1.4409	10.72	410006	1.2576	23.65	420055	1.0334	21.55
390139	1.4902	24.10	390196	1.5086		390265	1.2960	20.69	400022	1.3550	9.99	410007	1.6077	22.27	420056	1.2203	15.10
390142	1.5730	26.57	390197	1.4697	19.26	390266	1.1655	17.21	400024	0.9633	8.09	410008	1.2095	23.12	420057	1.1423	15.98
390145	1.4010	20.49	390198	1.2564	15.98	390267	1.2438	21.59	400026	1.0177	5.64	410009	1.3252	24.66	420059	0.9951	15.89
390146	1.2706	19.06	390199	1.1973	17.17	390268	1.3339	21.44	400027		9.59	410010	1.1320	27.07	420061	1.1300	19.02
390147	1.2032	21.09	390200	0.9409	15.15	390270	1.3984	18.72	400028	1.1174	8.91	410011	1.2441	24.99	420062	1.1754	17.74
390150	1.1443	21.25	390201	1.2378	20.71	390272	0.5183		400031		8.27	410012	1.8150	24.68	420064	1.1821	
390151	1.2241	21.70	390203	1.3451	21.11	390277		17.82	400032	1.2050	10.59	410013	1.2765	24.46	420065	1.3485	19.91
390152	1.0777	20.34	390204	1.2783	20.27	390278	0.6647	18.63	400044	1.4631	11.97	420002	1.4889	19.58	420066	1.0367	15.19
390153	1.2252	23.34	390206		18.44	390279	1.0636	14.41	400048	1.1615	9.19	420004	1.8906	19.80	420067	1.2058	19.02
390154	1.2076	17.72	390209	1.0417	17.83	390281	1.3650		400061	1.7940	12.91	420005	1.0771	17.49	420068	1.3360	18.58
390156	1.4359	20.56*	390211	1.2277	18.01	390284	1.4412		400079	1.1999		420006	1.0719	18.62	420069	1.0419	17.14
390157	1.3608	19.74	390213	1.1661	19.22	390285	1.6668		400087	1.5057	9.51	420007	1.5943	18.44	420070	1.2721	15.43
390160	1.2339	21.43	390215	1.1889	20.77	390286	1.1152		400094	1.0905	8.92	420009	1.1750	18.80	420071	1.3375	19.49
390161	1.0720	16.69	390217	1.2195	19.27	390287	1.5408		400098	1.3009	9.34	420010	1.1495	17.12	420072	0.9270	13.86
390162	1.4942	21.42	390219	1.2829	18.96*	390288	1.3205		400102	1.1160	9.86	420011	1.1579	16.64	420073	1.2998	19.24
390163	1.2985	16.92	390220	1.1356	18.87	390289	1.2735		400103	1.4139	11.23	420014	1.0098	17.03	420074	0.9703	17.01
390164	2.1661	25.91	390222	1.2848	21.70	390290	1.9083		400104	1.2735	11.12	420015	1.3587	18.88	420075	0.9049	14.48
390166	1.1228	19.37	390223	1.7590	22.21*	390291	1.0064		400105	1.1909	9.32	420016	0.9117	15.62	420078	1.8707	20.57
390167		20.11	390224	0.8462	16.06	390292	1.7398		400106	1.2229	9.31	420018	1.6937	19.79	420079	1.4542	21.00
390168	1.4324	18.85	390225	1.2356	18.83	400001	1.2713	9.95	400109	1.4645	10.99	420019	1.1298	17.40	420080	1.4090	22.51
390169	1.4254	19.91	390226	1.7162	23.01	400002	1.6814	10.14	400110	1.2210	10.36	420020	1.1853	18.90	420082	1.5064	20.51
390170	1.6553	18.33	390228	1.3772	19.49	400003	1.3343	6.87	400111	1.1955	10.47	420023	1.4599	22.35	420083	1.3483	20.31
390173	1.1611	18.59	390231	1.5411	20.49	400004	1.2034	8.99	400112	1.0783	10.18	420026	1.8483	20.30	420085	1.4415	19.59
390174	1.6425	25.07*	390233	1.3671	20.75	400005	1.1684	9.56	400113	1.2079	8.52	420027	1.3037	18.92	420086	1.4438	26.48
390176	1.2014	17.84	390235	1.4513	21.34*	400006	1.1960	10.33	400114	1.0938	9.05	420030	1.2526	19.07	420087	1.7286	19.21
390178	1.3200	16.78	390236	1.1984	16.40	400007	1.1674	6.45	400115	1.0873	9.98	420031	0.8958	14.45	420088	1.0686	17.06
390179	1.2709	21.74	390237	1.5383	19.90	400009	1.0022	8.42	400117	1.1340	10.23	420033	1.1243	21.74	420089	1.1770	20.33
390180	1.4422	25.65	390238	1.3058	17.82	400010	0.8818	8.49	400118	1.2341	9.44	420036	1.2338	17.72	420091	1.2947	19.00
390181	1.0954	19.73	390244	0.9301	16.67	400011	1.0851	7.50	400120	1.3236	9.55	420037	1.2657	21.79	420093	0.9796	17.49
390183	1.1932	18.03	390245	1.3389	21.30	400012	1.2487	8.24	400121	0.9217	8.09	420038	1.2484	17.68	420095	2.5155	

Average Hourly Wage based on data on file as of February 15, 2000. It does not reflect changes processed after that date.
ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
420096	1.7514		430066	0.9008	14.40	440030	1.1751	16.49	440091	1.6362	19.71	440173	1.6396	18.69	450021	1.8814	21.55
430004	0.9609	18.79	430073	1.0143	16.39	440031	1.0663	15.53	440100	0.9807	14.04	440174	0.9259	17.33	450023	1.4841	16.17
430005	1.2812	16.48	430076	0.9123	13.65	440032	0.9951	13.99	440102	1.1416	14.54	440175	1.1195	19.26	450024	1.3907	17.45
430007	1.0407	14.22	430077	1.6719	18.33	440033	1.1005	14.70	440103		20.55	440176	1.3127	18.23	450025		16.85
430008	1.1208	18.12	430079	0.9190	14.41	440034	1.5809	19.55	440104	1.7547	23.12	440180	1.1305	22.35	450028	1.4881	18.94
430010	1.0575	19.27	430081	0.9496		440035	1.2507	19.06	440105	0.9667	16.78	440181	0.9166	16.80	450029	1.6984	17.00
430011	1.2700	17.11	430082	0.8197		440039	1.8372	18.57	440109	1.1160	16.70	440182	0.9912	17.90	450031	1.3727	22.47
430012	1.2865	17.39	430083	0.8671		440040	1.0520	16.48	440110	1.1731	12.62	440183	1.6053	22.77	450032	1.2407	17.39
430013	1.2140	18.41	430084	0.8903		440041	1.0032	14.79	440111	1.3903	23.33	440184	1.1685	17.22	450033	1.6070	19.88
430014	1.2991	16.94	430085	0.8145		440046	1.1755	18.34	440114	1.0945	14.67	440185	1.1912	17.98	450034	1.5605	18.27
430015	1.1562	21.74	430089	0.8934	17.90	440047	0.9188	16.66	440115	1.0341	17.45	440186	0.9946	19.57	450035	1.4463	19.66
430016	1.8956	19.70	430090	1.5851	21.52	440048	1.8112	19.46*	440120	1.6727	17.23	440187	1.1545	18.44	450037	1.5430	18.95
430018	0.9377	14.89	430091	1.8060	19.21	440049	1.6778	12.12	440125	1.5439	15.73	440189	1.5100		450039	1.5413	20.21*
430022	0.8661	13.77	430092	2.0606		440050	1.2316	20.50	440130	1.1552	18.18	440192	1.0452	19.28	450040	1.7134	16.94
430023	0.9045	12.32	430093	0.9802		440051	0.9195	13.21	440131	1.1323	15.71	440193	1.2660	19.37	450042	1.6929	20.49
430024	0.9625	15.49	440001	1.1930	15.17	440052	0.9792	16.76	440132	1.1083	16.89	440194	1.3426	20.08	450044	1.4881	23.89
430027	1.7844	19.26	440002	1.6591	19.40	440053	1.3276	18.58	440133	1.5549	21.57	440197	1.2797	22.18	450046	1.4707	16.73
430028	1.1337	19.48	440003	1.2569	18.50	440054	1.2203	13.99	440135	1.1874	19.78	440200	1.1776	18.30	450047	1.1163	13.46
430029	0.9468	17.07	440006	1.3368	19.65	440056	1.0523	15.98	440137	1.1338	14.97	440203	0.9624	18.47	450050	0.9150	14.98
430031	0.8712	13.33	440007	1.0197	12.62	440057	1.0726	13.06	440141	0.9927	13.80	440206		16.47	450051	1.6138	20.36
430033	0.9751	16.11	440008	1.0196	17.54	440058	1.1480	16.50	440142	1.0087	15.99	440210	1.0561	11.02	450052	1.0261	13.94
430034	0.9654	15.66	440009	1.1329	17.89	440059	1.4748	18.61	440143	1.0185	17.78	440211		15.03	450053	1.0551	17.05
430036	0.9604	14.40	440010	0.9371	20.90	440060	1.1176	18.63	440144	1.2759	17.78	440212		17.07	450054	1.6178	23.39
430037	0.9250	17.25	440011	1.3658	17.90	440061	1.1173	14.98	440145	0.9782	16.97	440213		19.58	450055	1.1126	15.13
430038	1.0131	13.72	440012	1.6411	16.03	440063	1.6311	19.36	440147	1.7122	21.59	440214	1.6187		450056	1.6203	21.00
430040	1.0512	13.88	440014	0.9859	16.12	440064	1.1067	17.77	440148	1.0657	19.26	440217	1.2148		450058	1.6096	17.60
430041	0.8894	13.32	440015	1.8127	18.60	440065	1.3182	18.72	440149	1.0301	17.02	450002	1.4960	21.57	450059	1.2338	15.23
430043	1.1877	14.02	440016	1.0277	15.74	440067	1.1752	14.74	440150	1.3189	20.23	450004	1.0878	16.85	450063	0.8737	14.83
430044	0.7894	19.42	440017	1.8014	19.67	440068	1.2451	19.48	440151	1.1401	17.45	450005	1.2002	13.48	450064	1.4426	17.41
430047	1.0491	18.79	440018	1.2742	17.14	440070	1.0142	13.79	440152	2.0595	20.49	450007	1.2265	17.07	450065	0.9949	22.60
430048	1.1085	18.62	440019	1.7608	20.22	440071	1.1950	17.20	440153	1.1112	16.93	450008	1.2228	17.16	450068	1.8929	23.02
430049	0.8842	15.59	440020	1.1148	19.75	440072	1.2842	17.75	440156	1.4817	31.20	450010	1.4716	16.53	450072	1.2215	19.15
430051	0.9210	17.29	440022		15.85	440073	1.2464	19.22	440157	1.0596	17.13	450011	1.5042	17.22	450073	1.1334	17.58
430054	0.9508	14.74	440023	1.0919	15.73	440078	1.0057	15.09	440159	1.2264	18.11	450014	1.1292	18.23	450076	1.7681	
430056	0.8955	12.20	440024	1.3011	18.57	440081	1.0953	18.89	440161	1.8362	21.95	450015	1.5990	17.54	450078	0.9236	11.83
430057	0.9851	16.85	440025	1.1421	16.14	440082	2.0079	19.62	440162	0.7243	14.97	450016	1.5700	18.13	450079	1.4697	17.69
430060	0.8973	9.05	440026		26.56	440083	1.0269	42.77	440166	1.6689	19.67	450018	1.4567	21.77	450080	1.1648	14.53
430064	1.0133	14.49	440029	1.2736	19.57	440084	1.1552	13.61	440168	1.0086	18.99	450020	0.9528	18.04	450081	0.9876	16.52

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ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
450082	0.9960	16.16	450146	0.8943	20.90	450213	1.7687	14.84	450307	0.6961	16.62	450411	0.9183	14.59	450545	1.1744	19.67
450083	1.7958	21.68	450147	1.3482	18.27	450214	1.3120	19.28	450309	1.0330	13.18	450417	0.9553	13.50	450547	1.0057	14.82
450085	1.1423	18.49	450148	1.1863	18.49	450217	0.9378	13.02	450315	0.9183	23.14	450418	1.4654	22.10	450551	1.0662	17.05
450087	1.4100	22.09	450149	1.5830	18.81	450219	0.9736	15.49	450320	1.2139	19.16	450419	1.1985	20.66	450558	1.8453	22.35
450090	1.1643	15.21	450150	0.9361	16.47	450221	1.0745	16.67	450321	0.8878	13.02	450422	1.0383	26.48	450563	1.2800	18.57
450092	1.1843	16.23	450151	1.1655	15.41	450222	1.5295	20.35	450322	0.6218	23.32	450423		22.83	450565	1.2368	16.38
450094	1.3057	22.14	450152	1.1794	18.29	450224	1.3260	26.64	450324	1.4635	18.06	450424	1.2331	18.88	450570	1.1060	19.17
450096	1.4316	17.97	450153	1.5855	19.54	450229	1.6656	16.55	450327	0.9713	11.85	450429	1.0777	14.19	450571	1.5416	16.83
450097	1.3604	19.38	450154	1.2060	13.92	450231	1.5949	19.10	450330	1.1591	19.03	450431	1.5180	19.91	450573	1.0078	15.78
450098	1.0430	20.60	450155	1.0641	11.69	450234	1.0237	16.45	450334	0.9096	12.85	450438	1.1740	19.73	450574	0.9157	14.86
450099	1.1801	19.44	450157	1.0359	15.83	450235	1.0433	15.36	450337	1.0009	17.46	450446	0.7064	13.10	450575	1.0415	19.41
450101	1.5377	17.19	450160	0.9635	17.74	450236	1.2054	16.52	450340	1.4004	16.76	450447	1.3487	18.15	450578	0.9355	15.74
450102	1.6869	17.86	450162	1.2420	21.17	450237	1.5863	20.88	450341	1.0090	19.30	450451	1.1711	18.91	450580	1.1929	15.90
450104	1.1446	16.72	450163	1.0163	17.58	450239	1.0093	17.54	450346	1.3165	16.62	450457	1.8455	26.17	450583	1.0284	15.85
450107	1.5559	23.53	450164	1.1251	17.02	450241	1.0053	12.68	450347	1.2273	17.22	450460	1.0059	15.43	450584	1.0554	14.26
450108	1.0361	15.79	450165	0.9970	13.79	450243	0.9962	11.96	450348	1.0832	13.95	450462	1.7608	19.31	450586	1.0130	14.45
450109	0.9101	13.84	450166	0.9848	11.48	450246	1.1557	16.55	450351	1.1985	17.56	450464	0.8967	13.29	450587	1.1749	17.14
450110		19.63	450169		13.24	450249	1.0124	12.20	450352	1.1554	15.59	450465	1.2051	15.65	450591	1.1231	17.90
450111	1.2657	19.41	450170	0.9179	14.47	450250	0.9090	10.29	450353	1.1249	16.90	450467	1.0074	10.62	450596	1.2398	21.99
450112	1.2205	16.16	450176	1.3096	16.21	450253	1.1342	12.27	450355	0.9593	12.92	450469	1.4645	19.80	450597	0.9200	17.32
450113	1.3520	17.49	450177	1.1283	14.79	450258	0.9538	16.34	450358	2.0646	21.38	450473	1.0003	20.34	450603	0.6767	11.65
450118		17.72	450178	0.9711	17.95	450264	0.9521	14.25	450362	1.0631	15.41	450475	1.1255	16.23	450604	1.3064	16.56
450119	1.2895	20.34	450181	1.0189	15.56	450269	1.0285	12.42	450369	1.0425	15.65	450484	1.5193	16.83	450605	1.1726	20.44
450121	1.4558	19.67	450184	1.4254	21.30	450270	1.1022	12.91	450370	1.1686	12.62	450488	1.3170	19.47	450609	0.8760	16.08
450123	1.1661	15.86	450185	0.9994	14.47	450271	1.2754	16.78	450371	1.1421	24.63	450489	0.9231	10.02	450610	1.5045	17.27
450124	1.7120	21.87	450187	1.2363	16.76	450272	1.2605	19.40	450372	1.2134	15.79	450497	1.0741	15.17	450614	0.9387	14.17
450126	1.3319	32.99	450188	0.9614	14.34	450276	1.0243	13.26	450373	1.0187	17.31	450498	0.9672	13.92	450615	1.1101	15.31
450128	1.2133	18.22	450191	1.0720	20.24	450278	0.9120	14.95	450374	0.9227	13.81	450508	1.4167	19.04	450617	1.3670	21.80
450130	1.3544	20.83	450192	1.1841	20.52	450280	1.5969	21.73	450378	1.3774	23.87	450514	1.0524	21.68	450620	1.0735	16.01
450131	1.2707	18.14	450193	1.9907	23.11	450283	1.0658	14.69	450379	1.4183	22.81	450517	0.9600	28.24	450623	1.1402	22.58
450132	1.5767	17.71	450194	1.3360	20.58	450288	1.1124	16.32	450381	0.9911	16.60	450518	1.4288	19.94	450626	1.0285	18.50
450133	1.5579	24.02	450196	1.4149	17.34	450289	1.4136	19.42	450388	1.7790	17.97	450523	1.4373	20.28	450628	0.9792	21.08
450135	1.6715	20.96	450200	1.4510	17.36	450292	1.2175	5.36	450389	1.3010	17.90	450530	1.2461	28.30	450630	1.4789	21.73
450137	1.5680	22.50	450201	1.0866	16.99	450293	0.9113	16.31	450393	1.1967	14.68	450534	0.9218	20.41	450631	1.7081	19.96
450140	0.9325	20.23	450203	1.0964	20.89	450296	1.1790	21.73	450395	0.9819	17.25	450535	1.2963	19.82	450632	0.9815	11.89
450143	1.0309	14.55	450209	1.7119	18.74	450299	1.4784	21.64	450399	0.8681	16.13	450537	1.2836	20.82	450633	1.5955	18.54
450144	1.0765	18.27	450210	1.0429	14.09	450303	0.8535	12.55	450400	1.3197	17.64	450539	1.1845	16.57	450634	1.7054	18.10
450145	0.8587	16.21	450211	1.3947	18.08	450306	1.0552	11.97	450403	1.2160	21.31	450544	1.1001	25.46	450638	1.5434	23.22

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TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
450639	1.4535	22.74	450702	1.3929	20.94	450775	1.2827	19.31	460007	1.3623	21.02	470004	1.0901	16.98	490033	1.1611	21.44
450641	0.9823	16.85	450704	1.1144	17.67	450776	0.9621	21.13	460008	1.3326	19.03	470005	1.2236	22.03	490037	1.2493	16.50
450643	1.2484	15.28	450705	0.8976	10.47	450777	0.9171	19.76	460009	1.8531	21.78	470006	1.2142	18.14	490038	1.1750	22.06
450644	1.5278	23.46	450706	1.2002	21.21	450779	1.3162	16.26	460010	2.0267	22.10	470008	1.2047	19.70	490040	1.4176	22.73
450646	1.4067	18.49	450709	1.2351	20.53	450780	1.6540	19.26	460011	1.4199	19.08	470010	1.1119	20.35	490041	1.3269	18.24
450647	1.8230	24.99	450711	1.6715	18.65	450785	0.8497	18.50	460013	1.3875	19.59	470011	1.1746	21.78	490042	1.2583	16.67
450648	1.0109	15.19	450712	0.5321	13.62	450788	1.5915	19.06	460014	1.1796		470012	1.2287	18.60	490043	1.3021	22.60
450649	0.9519	16.64	450713	1.4817	21.06	450794		18.22	460015	1.2695	20.84	470015	1.2640	20.58	490044	1.3680	18.39
450651	1.6788	22.80	450715	1.3773	22.21	450795	0.9434	16.65	460016	1.0803	18.66	470018	1.2088	21.70	490045	1.2492	20.74
450652		13.56	450716	1.2405	20.64	450796		16.54	460017	1.3617	17.95	470020	0.9267	21.33	490046	1.5443	18.48
450653	1.1007	18.42	450717	1.2506	20.77	450797		15.92	460018	0.9149	18.92	470023	1.3133	20.58	490047	1.0575	25.88
450654	0.9517	14.69	450718	1.1948	19.74	450798		9.66	460019	1.0442	16.62	470024	1.1433	20.88	490048	1.4965	18.83
450656	1.3437	17.42	450723	1.3958	19.76	450801	1.4413	16.61	460020	0.9010	17.38	490001	1.1856	22.06	490050	1.4056	23.10
450658	1.0274	16.26	450724	1.2345	20.38	450802	1.3907	19.92	460021	1.4514	21.12	490002	1.0447	16.63	490052	1.6530	16.89
450659	1.5156	21.64	450727	1.0718	13.65	450803	1.1881	17.10	460022	0.9548	20.59	490003	0.6857	19.17	490053	1.2444	15.72
450661	1.1545	19.78	450728	0.8812	17.83	450804	1.6092	18.91	460023	1.2893	22.42	490004	1.2554	19.25	490054	1.0026	15.75
450662	1.4591	18.33	450730	1.2159	22.12	450806	1.0901		460025	0.7321	21.01	490005	1.6128	20.67	490057	1.6660	19.96
450665	0.8576	15.36	450733	1.4100	17.35	450807	0.7885	11.72	460026	1.1345	20.17	490006	1.1819	16.17	490059	1.5972	21.25
450666	1.2980	20.59	450735		14.20	450808	1.9776	16.99	460027	0.9048	22.38	490007	2.1445	18.69	490060	1.0610	17.82
450668	1.6447	20.78	450742	1.2950	23.00	450809	1.5576	20.06	460029	1.0288	20.83	490009	1.8346	23.70	490063	1.7473	28.99
450669	1.2883	21.84	450743	1.5082	18.89	450810	0.8196		460030	1.1907	17.72	490010		22.96	490066	1.2752	19.28
450670	1.3667	16.94	450746	0.9165		450811	2.3313	19.11	460032	0.9642		490011	1.4315	17.97	490067	1.2439	17.42
450672	1.6502	21.68	450747	1.2546	19.20	450813	0.9759	15.92	460033	1.0248	19.62	490012	1.2096	16.29	490069	1.4470	14.45
450673	0.9922	14.16	450749	0.9838	16.34	450817	0.7497		460035	0.9162	16.27	490013	1.2819	17.34	490071	1.4402	21.90
450674	1.0414	22.39	450750	1.0004	14.75	450818	1.1935		460036	0.9335	24.10	490014	1.7745	25.89	490073	1.4367	20.91
450675	1.5238	22.56	450751	1.2101	22.05	450819	1.5223		460037	0.9614	19.16	490015	1.4511	19.68	490075	1.4050	18.50
450677	1.3365	22.99	450754	0.9924	16.19	450820	1.0098		460039	1.0265	25.10	490017	1.3972	18.65	490077	1.2582	21.44
450678	1.4631	23.40	450755	1.0440	17.99	450822	1.3206		460041	1.2947	21.11	490018	1.2388	19.02	490079	1.3006	17.72
450683	1.2553	20.55	450757	0.8813	13.87	450823	0.8929		460042	1.4016	18.27	490019	1.1702	19.76	490084	1.1482	16.95
450684	1.2358	19.75	450758	1.5865	22.64	450824	2.1452		460043	1.0320	24.56	490020	1.2444	18.77	490085	1.1526	17.78
450686	1.6694	15.61	450760	1.1227	17.76	450825	1.7366		460044	1.1802	21.55	490021	1.4211	19.70	490088	1.1466	17.26
450688	1.2922	19.80	450761	0.9095	13.77	450827	1.3679		460046		19.25	490022	1.5400	21.28	490089	1.0672	18.12
450690	1.3030	22.30	450763	1.0772	18.33	450828	1.1400		460047	1.6289	22.83	490023	1.1961	20.80	490090	1.1171	17.19
450694	1.1766	17.53	450766	2.0511	22.66	460001	1.7776	21.65	460049	2.0509	19.65	490024	1.6655	20.28	490091	1.2414	20.92
450696		25.05	450769	0.9131	14.64	460003	1.5139	20.12	460051	1.1512	19.49	490027	1.1283	16.56	490092	1.1993	17.41
450697	1.3828	19.22	450770	1.0388	16.59	460004	1.7379	18.65	460052	1.2179		490030		8.27	490093	1.4168	17.27
450698	0.9236	14.73	450771	1.8332	22.08	460005	1.5708	19.25	470001	1.3211	20.36	490031	1.0743	15.19	490094	1.0401	18.92
450700	0.9571	15.09	450774	1.4994	15.85	460006	1.2717	20.70	470003	1.8784	23.98	490032	1.7032	22.53	490097	1.2107	15.80

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ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
490098	1.1619	15.52	500015	1.3388	24.01	500068	1.0026	21.92	500139	1.4984	22.36	510060		17.83	520028	1.2946	22.03
490099	0.9143	18.11	500016	1.5172	24.52	500069	1.0966	21.36	500141	1.3708	23.88	510061	1.0311	13.89	520029	0.9182	19.61
490100		23.92	500019	1.4072	22.75	500071	1.2764	19.19	500143	0.5330	18.03	510062	1.1717	19.64	520030	1.6835	20.58
490101	1.2104	24.89	500021	1.4662	26.00	500072	1.1977	25.59	500146		21.60	510066		12.35	520031	1.0527	21.71
490104	0.7590	39.77	500023	1.1539	26.81	500073	0.9698	22.96	510001	1.8670	19.01	510067	1.1081	16.74	520032	1.2271	20.20
490105	0.6195	19.48	500024	1.7123	23.93	500074	1.0798	19.12	510002	1.2875	20.15	510068	1.2068	18.87	520033	1.1938	19.73
490106	0.8205	20.69	500025	1.8551	26.39	500077	1.2916	22.86	510005	1.0548	14.39	510070	1.3020	19.05	520034	1.1877	17.42
490107	1.3749	23.53	500026	1.4243	23.81	500079	1.2831	24.60	510006	1.2275	18.76	510071	1.3229	17.27	520035	1.2917	19.01
490108	0.9179	24.55	500027	1.6187	22.39	500080	0.8127	17.24	510007	1.5830	21.35	510072	1.0316	16.14	520037	1.6595	20.79
490109	0.8814	43.52	500028	1.0333	20.32	500084	1.1782	23.53	510008	1.2326	18.44	510077	1.1082	18.10	520038	1.2811	19.64
490110	1.3378	16.92	500029	0.9293	18.10	500085	0.9750	22.00	510012	0.9916	16.06	510080	1.0892	17.72	520039	0.9853	22.76
490111	1.1772	17.36	500030	1.4356	24.93	500086	1.2499	23.33	510013	1.0617	18.03	510081	1.1326	13.84	520040	1.5734	20.51
490112	1.6380	21.48	500031	1.2626	30.43	500088	1.3490	23.31	510015	0.9331	15.00	510082	1.1539	18.01	520041	1.1875	17.71
490113	1.2798	23.28	500033	1.3611	22.66	500089	1.0651	19.75	510018	1.0911	18.53	510084	0.9761		520042	1.0978	18.72
490114	1.0713	17.41	500036	1.3684	22.32	500090	0.9553	18.09	510020	1.0381	13.49	510085	1.2868	17.40	520044	1.4432	18.66
490115	1.1835	16.85	500037	1.1283	20.73	500092	1.0483	17.17	510022	1.8940	20.21	510086	1.0538		520045	1.6686	20.60
490116	1.1827	17.07	500039	1.4018	24.02	500094	0.8629	19.67	510023	1.2009	16.14	510088	1.0585		520047	0.9641	19.77
490117	1.1675	14.14	500041	1.2903	24.27	500096	1.0371	20.98	510024	1.5609	19.15	520002	1.2446	19.80	520048	1.4699	20.73
490118	1.7174	21.79	500042		22.91	500097	1.1124	20.30	510026	1.0625	13.89	520003	1.1470	17.12	520049	2.1110	20.42
490119	1.4774	17.91	500043	0.9855	22.03	500098	0.9611	16.56	510027	0.9781	17.55	520004	1.2166	20.57	520051	1.7733	21.74
490120	1.3380	19.31	500044	1.9958	23.47	500101	0.9913	19.75	510028	1.0360	20.50	520006	1.0031	22.32	520053	1.1632	17.45
490122	1.3994	24.00	500045	1.0519	21.03	500102	0.9753	20.99	510029	1.2643	17.79	520007	1.0609	16.45	520054	1.0276	16.04
490123	1.1397	17.96	500048	0.9209	23.64	500104	1.2042	22.82	510030	1.0272	17.58	520008	1.6068	22.82	520057	1.1291	19.21
490124	1.0762	21.36	500049	1.4087	24.86	500106	0.9099	19.03	510031	1.4214	31.62	520009	1.6634	18.66	520058	1.1246	19.73
490126	1.3068	19.13	500050	1.3901	22.09	500107	1.1275	18.12	510033	1.2891	16.44	520010	1.0997	22.77	520059	1.3217	21.20
490127	1.0278	16.17	500051	1.7224	24.92	500108	1.7558	26.43	510035	1.1875	16.75	520011	1.1660	20.84	520060	1.4629	18.35
490129	1.0921	70.69	500052	1.3449		500110	1.1461	21.63	510036	0.9419	14.42	520013	1.3438	15.83	520062	1.2311	19.42
490130	1.2502	16.53	500053	1.3078	24.04	500118	1.1260	23.84	510038	1.0712	15.92	520014	1.1234	17.23	520063	1.1835	19.72
490132	1.1041	19.11	500054	1.9647	28.67	500119	1.2955	22.48	510039	1.4126	17.00	520015	1.1646	18.71	520064	1.5643	22.81
500001	1.5630	22.39	500055	1.0899	23.94	500122	1.2366	22.87	510043	0.8981	14.27	520016	1.1835	18.32	520066	1.4377	23.81
500002	1.4632	21.89	500057	1.2634	18.32	500123	1.0661	20.51	510046	1.2032	17.49	520017	1.1188	20.03	520068	0.9323	19.48
500003	1.4120	28.85	500058	1.4557	24.82	500124	1.3291	23.38	510047	1.1603		520018	1.0709	20.18	520069	1.1929	20.55
500005	1.8140	22.48	500059	1.0927	23.65	500125	1.0770	15.91	510048	1.1370	21.04	520019	1.1935	20.02	520070	1.5322	18.68
500007	1.3788	26.17	500060	1.4548	25.20	500127	1.0838		510050	1.7222	17.01	520021	1.4890	21.38	520071	1.2015	19.17
500008	1.8285	25.37	500061	0.9435	21.72	500129	1.5989	26.11	510053	1.0166	16.53	520024	1.0043	14.08	520074	1.0144	21.03
500011	1.3586	23.89	500062	1.0828	18.84	500132	1.0101	15.67	510055	1.2904	23.80	520025	1.0627	18.43	520075	1.4649	20.29
500012	1.5651	21.02	500064	1.5966	25.70	500134	0.6380	17.75	510058	1.2883	18.58	520026	1.1073	21.63	520076	1.1466	18.01
500014	1.5484	24.43	500065	1.2588	21.94	500138	4.4489		510059	2.2171	16.77	520027	1.2727	19.95	520077	0.9197	17.92

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ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 3C: HOSPITAL CASE MIX INDEXES FOR DISCHARGES OCCURRING IN FEDERAL FISCAL YEAR 1999
HOSPITAL AVERAGE HOURLY WAGE FOR FEDERAL FISCAL YEAR 2001 WAGE INDEX

PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE	PROV.	CASE MIX INDEX	AVG. HOUR. WAGE
520078	1.5782	21.35	520134	1.1381	18.36	530012	1.6523	19.07									
520082		17.76	520135	0.8966	15.92	530014	1.4436	18.33									
520083	1.6498	23.92	520136	1.4618	19.95	530015	1.2294	22.89									
520084	1.1004	20.86	520138	1.8041	21.26	530016	1.2655	18.77									
520087	1.6939	20.48	520139	1.2597	21.06	530017	0.9021	16.52									
520088	1.2653	21.10	520140	1.6432	21.66	530018	1.2153	18.90									
520089	1.4636	21.62	520142	0.8531	22.95	530019	0.9189	19.65									
520090	1.3780	18.96	520144	1.0474	18.75	530022	1.1474	18.75									
520091	1.3127	21.61	520145	0.9007	18.40	530023	0.8667	20.69									
520092	1.1118	17.82	520146	1.0503	18.01	530025	1.4917	21.46									
520094	0.7713	20.53	520148	1.1135	17.41	530026	0.9944	18.10									
520095	1.2760	20.54	520149	0.9075	14.45	530027	0.8937	18.04									
520096	1.4155	19.73	520151	1.0428	17.38	530029	0.9222	20.22									
520097	1.2960	20.12	520152	1.1007	20.40	530031	0.7912	19.18									
520098	1.8137	22.48	520153	0.9397	16.73	530032	1.0391	21.19									
520100	1.2287	18.54	520154	1.1326	18.60												
520101	1.1324	19.65	520156	1.1396	21.58												
520102	1.1668	20.30	520157	1.0554	18.12												
520103	1.3028	19.56	520159	0.9117	18.98												
520107	1.2267	20.82	520160	1.7786	19.42												
520109	1.0392	19.42	520161	0.9866	20.37												
520110	1.2277	20.50	520170	1.2569	21.62												
520111	0.9743	17.85	520171	0.9402	18.19												
520112	1.1347	19.21	520173	1.1319	21.37												
520113	1.3008	21.31	520177	1.6377	22.29												
520114	1.0857	17.84	520178	1.0532	19.94												
520115	1.1995	18.55	520188	2.3936	13.91												
520116	1.1297	20.34	520189	1.0866													
520117	1.0176	18.85	530002	1.1379	19.42												
520118	0.8951	15.80	530003	0.8570	18.11												
520120		25.88	530004	0.9967	15.19												
520121	0.9684	20.63	530005	1.2070	13.46												
520122	0.9672	16.97	530006	1.1178	18.73												
520123	1.0245	17.40	530007	0.9956	20.19												
520124	1.0387	17.77	530008	1.1846	19.18												
520130	1.0843	16.31	530009	0.9534	22.99												
520131	0.9925	19.00	530010	1.2257	22.07												
520132	1.1750	15.68	530011	1.1642	18.74												

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ASTERISK DENOTES TEACHING PHYSICIAN COSTS REMOVED BASED ON COSTS REPORTED ON WORKSHEET A, COL. 1, LINE 23 OF FY 1997 COST REPORT.

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS

Urban area (constituent counties)	Wage index	GAF
0040 Abilene, TX	0.8318	0.8815
Taylor, TX		
0060 Aguadilla, PR	0.4826	0.6072
Aguada, PR		
Aguadilla, PR		
Moca, PR		
0080 Akron, OH	1.0557	1.0378
Portage, OH		
Summit, OH		
0120 Albany, GA	1.1854	1.1235
Dougherty, GA		
Lee, GA		
0160 Albany-Schenectady-Troy, NY	0.8563	0.8992
Albany, NY		
Montgomery, NY		
Rensselaer, NY		
Saratoga, NY		
Schenectady, NY		
Schoharie, NY		
0200 Albuquerque, NM	0.9365	0.9561
Bernalillo, NM		
Sandoval, NM		
Valencia, NM		
0220 Alexandria, LA	0.8262	0.8774
Rapides, LA		
0240 Allentown-Bethlehem-Easton, PA	0.9849	0.9896
Carbon, PA		
Lehigh, PA		
Northampton, PA		
0280 Altoona, PA	0.9262	0.9489
Blair, PA		
0320 Amarillo, TX Potter, TX	0.8663	0.9064
Randall, TX		
0380 Anchorage, AK	1.2967	1.1947
Anchorage, AK		
0440 Ann Arbor, MI	1.1283	1.0862
Lenawee, MI		
Livingston, MI		
Washtenaw, MI		
0450 Anniston, AL	0.8331	0.8825
Calhoun, AL		
0460 Appleton-Oshkosh-Neenah, WI	0.9101	0.9375
Calumet, WI		
Outagamie, WI		
Winnebago, WI		
0470 Arecibo, PR	0.4540	0.5823
Arecibo, PR		
Camuy, PR		
Hatillo, PR		
0480 Asheville, NC	0.9527	0.9674
Buncombe, NC		
Madison, NC		
0500 Athens, GA	0.9829	0.9883
Clarke, GA		
Madison, GA		
Oconee, GA		
0520 [1] Atlanta, GA	0.9945	0.9962
Barrow, GA		
Bartow, GA		
Carroll, GA		
Cherokee, GA		
Clayton, GA		
Cobb, GA		
Coweta, GA		
DeKalb, GA		
Douglas, GA		
Fayette, GA		
Forsyth, GA		
Fulton, GA		
Gwinnett, GA		
Henry, GA		
Newton, GA		
Paulding, GA		
Pickens, GA		
Rockdale, GA		
Spalding, GA		
Walton, GA		
0560 Atlantic-Cape May, NJ	1.1220	1.0820
Atlantic, NJ		
Cape May, NJ		
0580 Auburn-Opelika, AL	0.8170	0.8707
Lee, AL		
0600 Augusta-Aiken, GA–SC	0.9226	0.9463
Columbia, GA		
McDuffie, GA		
Richmond, GA		
Aiken, SC		
Edgefield, SC		
0640 [1] Austin-San Marcos, TX	0.9436	0.9610
Bastrop, TX		
Caldwell, TX		
Hays, TX		
Travis, TX		
Williamson, TX		
0680 [2] Bakersfield, CA	0.9966	0.9977
Kern, CA		
0720 [1] Baltimore, MD	0.9485	0.9644
Anne Arundel, MD		
Baltimore, MD		
Baltimore City, MD		
Carroll, MD		
Harford, MD		
Howard, MD		
Queen Anne's, MD		
0733 Bangor, ME	0.9613	0.9733
Penobscot, ME		
0743 Barnstable-Yarmouth, MA	1.3938	1.2553
Barnstable, MA		
0760 Baton Rouge, LA	0.8964	0.9278
Ascension, LA		
East Baton Rouge, LA		
Livingston, LA		
West Baton Rouge, LA		
0840 Beaumont-Port Arthur, TX	0.8361	0.8846
Hardin, TX		
Jefferson, TX		
Orange, TX		
0860 Bellingham, WA	1.1491	1.0998
Whatcom, WA		
0870 [2] Benton Harbor, MI	0.9133	0.9398
Berrien, MI		
0875 [1] Bergen-Passaic, NJ	1.1727	1.1153
Bergen, NJ		
Passaic, NJ		
0880 Billings, MT	0.9577	0.9708
Yellowstone, MT		
0920 Biloxi-Gulfport-Pascagoula, MS	0.8282	0.8789
Hancock, MS		
Harrison, MS		
Jackson, MS		
0960 Binghamton, NY	0.8723	0.9107
Broome, NY		
Tioga, NY		
1000 Birmingham, AL	0.8574	0.9000
Blount, AL		
Jefferson, AL		
St. Clair, AL		
Shelby, AL		
1010 Bismarck, ND	0.8016	0.8595
Burleigh, ND		
Morton, ND		
1020 Bloomington-Normal, IL	0.8854	0.9200
Monroe, IN		
1040 Bloomington-Normal, IL	0.9294	0.9511
McLean, IL		
1080 Boise City, ID	0.9133	0.9398
Ada, ID		
Canyon, ID		
1123 [1 2] Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH (MA Hospitals)	1.1348	1.0905
Bristol, MA		
Essex, MA		
Middlesex, MA		
Norfolk, MA		
Plymouth, MA		
Suffolk, MA		
Worcester, MA		
Hillsborough, NH		
Merrimack, NH		
Rockingham, NH		
Strafford, NH		
1123 [1] Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH (NH Hospitals)	1.1239	1.0833
Bristol, MA		
Essex, MA		
Middlesex, MA		
Norfolk, MA		
Plymouth, MA		
Suffolk, MA		
Worcester, MA		
Hillsborough, NH		
Merrimack, NH		
Rockingham, NH		
Strafford, NH		
1125 Boulder-Longmont, CO	0.9798	0.9861
Boulder, CO		
1145 Brazoria, TX	0.8751	0.9127
Brazoria, TX		
1150 Bremerton, WA	1.1069	1.0720
Kitsap, WA		
1240 Brownsville-Harlingen-San Benito, TX	0.8794	0.9158

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Cameron, TX		
1260 Bryan-College Station, TX	0.8306	0.8806
Brazos, TX		
1280 [1] Buffalo-Niagara Falls, NY	0.9566	0.9701
Erie, NY		
Niagara, NY		
1303 Burlington, VT	0.9624	0.9741
Chittenden, VT		
Franklin, VT		
Grand Isle, VT		
1310 Caguas, PR	0.4591	0.5868
Caguas, PR		
Cayey, PR		
Cidra, PR		
Gurabo, PR		
San Lorenzo, PR		
1320 [2] Canton-Massillon, OH	0.8778	0.9146
Carroll, OH		
Stark, OH		
1350 [2] Casper, WY	0.9046	0.9336
Natrona, WY		
1360 Cedar Rapids, IA	0.8396	0.8872
Linn, IA		
1400 Champaign-Urbana, IL	0.9353	0.9552
Champaign, IL		
1440 Charleston-North Charleston, SC	0.9094	0.9370
Berkeley, SC		
Charleston, SC		
Dorchester, SC		
1480 Charleston, WV	0.9324	0.9532
Kanawha, WV		
Putnam, WV		
1520 [1] Charlotte-Gastonia-Rock Hill, NC–SC	0.9307	0.9520
Cabarrus, NC		
Gaston, NC		
Lincoln, NC		
Mecklenburg, NC		
Rowan, NC		
Stanly, NC		
Union, NC		
York, SC		
1540 Charlottesville, VA	1.0744	1.0504
Albemarle, VA		
Charlottesville City, VA		
Fluvanna, VA		
Greene, VA		
1560 Chattanooga, TN–GA	1.0083	1.0057
Catoosa, GA		
Dade, GA		
Walker, GA		
Hamilton, TN		
Marion, TN		
1580 [2] Cheyenne, WY	0.9046	0.9336
Laramie, WY		
1600 [1] Chicago, IL	1.1027	1.0692
Cook, IL		
DeKalb, IL		
DuPage, IL		
Grundy, IL		
Kane, IL		
Kendall, IL		
Lake, IL		
McHenry, IL		
Will, IL		
1620 Chico-Paradise, CA	1.0684	1.0464
Butte, CA		
1640 1Cincinnati, OH–KY–IN	0.9330	0.9536
Dearborn, IN		
Ohio, IN		
Boone, KY		
Campbell, KY		
Gallatin, KY		
Grant, KY		
Kenton, KY		
Pendleton, KY		
1660 Clarksville-Hopkinsville, TN–KY	0.8393	0.8869
Christian, KY		
Montgomery, TN		
1680 [1] Cleveland-Lorain-Elyria, OH	0.9649	0.9758
Ashtabula, OH		
Cuyahoga, OH		
Geauga, OH		
Lake, OH		
Lorain, OH		
Medina, OH		
1720 Colorado Springs, CO	0.9770	0.9842
El Paso, CO		
1740 Columbia, MO	0.8600	0.9019
Boone, MO		
1760 Columbia, SC	0.9641	0.9753
Lexington, SC		
Richland, SC		
1800 Columbus, GA–AL	0.8607	0.9024
Russell, AL		
Chattahoochee, GA		
Harris, GA		
Muscogee, GA		
1840 [1] Columbus, OH	0.9741	0.9822
Delaware, OH		
Fairfield, OH		
Franklin, OH		
Licking, OH		
Madison, OH		
Pickaway, OH		
1880 Corpus Christi, TX	0.8496	0.8944
Nueces, TX		
San Patricio, TX		
1890 Corvallis, OR	1.1439	1.0964
Benton, OR		
1900 [2] Cumberland, MD–WV (MD Hospitals)	0.8717	0.9103
Allegany, MD		
Mineral, WV		
1900 Cumberland, MD–WV (WV Hospital)	0.8437	0.8901
Allegany, MD		
Mineral, WV		
1920 [1] Dallas, TX	0.9220	0.9459
Collin, TX		
Dallas, TX		
Denton, TX		
Ellis, TX		
Henderson, TX		
Hunt, TX		
Kaufman, TX		
Rockwall, TX		
1950 Danville, VA	0.8527	0.8966
Danville City, VA		
Pittsylvania, VA		
1960 Davenport-Moline-Rock Island, IA–IL	0.9021	0.9319
Scott, IA		
Henry, IL		
Rock Island, IL		
2000 Dayton-Springfield, OH	0.9519	0.9668
Clark, OH		
Greene, OH		
Miami, OH		
Montgomery, OH		
2020 Daytona Beach, FL	0.9179	0.9430
Flagler, FL		
Volusia, FL		
2030 Decatur, AL	0.8627	0.9038
Lawrence, AL		
Morgan, AL		
2040 Decatur, IL	0.8601	0.9019
Macon, IL		
2080 [1] Denver, CO	1.0032	1.0022
Adams, CO		
Arapahoe, CO		
Denver, CO		
Douglas, CO		
Jefferson, CO		
2120 Des Moines, IA	0.9211	0.9453
Dallas, IA		
Polk, IA		
Warren, IA		
2160 [1] Detroit, MI	1.0057	1.0039
Lapeer, MI		
Macomb, MI		
Monroe, MI		
Oakland, MI		
St. Clair, MI		
Wayne, MI		
2180 Dothan, AL	0.8105	0.8660
Dale, AL		
Houston, AL		
2190 Dover, DE	1.1032	1.0696
Kent, DE		
2200 Dubuque, IA	0.8928	0.9253
Dubuque, IA		
2240 Duluth-Superior, MN–WI	1.0201	1.0137
St. Louis, MN		
Douglas, WI		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
2281 Dutchess County, NY Dutchess, NY	0.9599	0.9724
2290 [2] Eau Claire, WI Chippewa, WI Eau Claire, WI	0.9073	0.9356
2320 El Paso, TX El Paso, TX	0.9215	0.9456
2330 Elkhart-Goshen, IN Elkhart, IN	0.9549	0.9689
2335 Elmira, NY Chemung, NY	0.8645	0.9051
2340 Enid, OK Garfield, OK	0.8781	0.9148
2360 Erie, PA Erie, PA	0.9021	0.9319
2400 Eugene-Springfield, OR Lane, OR	1.1026	1.0692
2440 [2] Evansville-Henderson, IN–KY (IN Hospitals) Posey, IN Vanderburgh, IN Warrick, IN Henderson, KY	0.8807	0.9167
2440 Evansville-Henderson, IN–KY (KY Hospitals) Posey, IN Vanderburgh, IN Warrick, IN Henderson, KY	0.8018	0.8596
2520 Fargo-Moorhead, ND–MN Clay, MN Cass, ND	0.8830	0.9183
2560 Fayetteville, NC Cumberland, NC	0.8638	0.9046
2580 Fayetteville-Springdale-Rogers, AR Benton, AR Washington, AR	0.7999	0.8582
2620 Flagstaff, AZ–UT Coconino, AZ Kane, UT	1.0844	1.0571
2640 Flint, MI Genesee, MI	1.1189	1.0800
2650 Florence, AL Colbert, AL Lauderdale, AL	0.7621	0.8302
2655 Florence, SC Florence, SC	0.8838	0.9189
2670 Fort Collins-Loveland, CO Larimer, CO	1.1005	1.0678
2680 [1] Ft. Lauderdale, FL Broward, FL	1.0228	1.0156
2700 Fort Myers-Cape Coral, FL Lee, FL	0.9112	0.9383
2710 Fort Pierce-Port St. Lucie, FL Martin, FL St. Lucie, FL	0.9672	0.9774
2720 Fort Smith, AR–OK Crawford, AR Sebastian, AR Sequoyah, OK	0.8858	0.9203
2750 Fort Walton Beach, FL Okaloosa, FL	0.9351	0.9551
2760 [2] Fort Wayne, IN Adams, IN Allen, IN De Kalb, IN Huntington, IN Wells, IN Whitley, IN	0.8807	0.9167
2800 [1] Forth Worth-Arlington, TX Hood, TX Johnson, TX Parker, TX Tarrant, TX	0.9442	0.9614
2840 Fresno, CA Fresno, CA Madera, CA	1.0184	1.0126
2880 Gadsden, AL Etowah, AL	0.8491	0.8940
2900 Gainesville, FL Alachua, FL	1.0286	1.0195
2920 Galveston-Texas City, TX Galveston, TX	1.0284	1.0194
2960 Gary, IN Lake, IN Porter, IN	0.9454	0.9623
2975 [2] Glens Falls, NY Warren, NY Washington, NY	0.8558	0.8989
2980 [2] Goldsboro, NC Wayne, NC	0.8553	0.8985
2985 Grand Forks, ND–MN Polk, MN Grand Forks, ND	1.0207	1.0141
2995 Grand Junction, CO Mesa, CO	0.9601	0.9725
3000 [1] Grand Rapids-Muskegon-Holland, MI Allegan, MI Kent, MI Muskegon, MI Ottawa, MI	1.0256	1.0175
3040 Great Falls, MT Cascade, MT	0.9447	0.9618
3060 Greeley, CO Weld, CO	0.9908	0.9937
3080 Green Bay, WI Brown, WI	0.9359	0.9556
3120 [1] Greensboro-Winston-Salem-High Point, NC Alamance, NC Davidson, NC Davie, NC Forsyth, NC Guilford, NC Randolph, NC Stokes, NC Yadkin, NC	0.9187	0.9436
3150 Greenville, NC Pitt, NC	0.9454	0.9623
3160 Greenville-Spartanburg-Anderson, SC Anderson, SC Cherokee, SC Greenville, SC Pickens, SC Spartanburg, SC	0.9160	0.9417
3180 Hagerstown, MD Washington, MD	0.9647	0.9757
3200 Hamilton-Middletown, OH Butler, OH	0.8892	0.9227
3240 Harrisburg-Lebanon-Carlisle, PA Cumberland, PA Dauphin, PA Lebanon, PA Perry, PA	0.9467	0.9632
3283 [1 2] Hartford, CT Hartford, CT Litchfield, CT Middlesex, CT Tolland, CT	1.1798	1.1199
3285 [2] Hattiesburg, MS Forrest, MS Lamar, MS	0.7608	0.8293
3290 Hickory-Morganton-Lenoir, NC Alexander, NC Burke, NC Caldwell, NC Catawba, NC	0.8989	0.9296
3320 Honolulu, HI Honolulu, HI	1.1905	1.1268
3350 Houma, LA Lafourche, LA Terrebonne, LA	0.8218	0.8742
3360 [1] Houston, TX Chambers, TX Fort Bend, TX Harris, TX Liberty, TX Montgomery, TX Waller, TX	0.9661	0.9767
3400 Huntington-Ashland, WV–KY–OH Boyd, KY Carter, KY Greenup, KY Lawrence, OH Cabell, WV Wayne, WV	0.9961	0.9973
3440 Huntsville, AL Limestone, AL Madison, AL	0.9089	0.9367
3480 [1] Indianapolis, IN Boone, IN Hamilton, IN Hancock, IN	0.9314	0.9525

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Hendricks, IN		
Johnson, IN		
Madison, IN		
Marion, IN		
Morgan, IN		
Shelby, IN		
3500 Iowa City, IA	0.9749	0.9827
Johnson, IA		
3520 [2] Jackson, MI	0.9133	0.9398
Jackson, MI		
3560 Jackson, MS	0.8890	0.9226
Hinds, MS		
Madison, MS		
Rankin, MS		
3580 Jackson, TN	0.8939	0.9261
Madison, TN		
Chester, TN		
3600 [1] Jacksonville, FL	0.8995	0.9300
Clay, FL		
Duval, FL		
Nassau, FL		
St. Johns, FL		
3605 [2] Jacksonville, NC	0.8553	0.8985
Onslow, NC		
3610 [2] Jamestown, NY	0.8558	0.8989
Chautauqua, NY		
3620 Janesville-Beloit, WI	0.9856	0.9901
Rock, WI		
3640 Jersey City, NJ	1.0985	1.0664
Hudson, NJ		
3660 Johnson City-Kingsport-Bristol, TN–VA	0.8412	0.8883
Carter, TN		
Hawkins, TN		
Sullivan, TN		
Unicoi, TN		
Washington, TN		
Bristol City, VA		
Scott, VA		
Washington, VA		
3680 Johnstown, PA	0.8686	0.9080
Cambria, PA		
Somerset, PA		
3700 Jonesboro, AR	0.8587	0.9009
Craighead, AR		
3710 Joplin, MO	0.7924	0.8527
Jasper, MO		
Newton, MO		
3720 Kalamazoo-Battlecreek, MI	1.0247	1.0168
Calhoun, MI		
Kalamazoo, MI		
Van Buren, MI		
3740 Kankakee, IL	0.8954	0.9271
Kankakee, IL		
3760 [1] Kansas City, KS–MO	0.9629	0.9744
Johnson, KS		
Leavenworth, KS		
Miami, KS		
Wyandotte, KS		
Cass, MO		
Clay, MO		
Clinton, MO		
Jackson, MO		
Lafayette, MO		
Platte, MO		
Ray, MO		
3800 Kenosha, WI	0.9703	0.9796
Kenosha, WI		
3810 Killeen-Temple, TX	1.0321	1.0219
Bell, TX		
Coryell, TX		
3840 Knoxville, TN	0.8422	0.8890
Anderson, TN		
Blount, TN		
Knox, TN		
Loudon, TN		
Sevier, TN		
Union, TN		
3850 Kokomo, IN	0.9190	0.9438
Howard, IN		
Tipton, IN		
3870 La Crosse, WI–MN	0.9442	0.9614
Houston, MN		
La Crosse, WI		
3880 Lafayette, LA	0.8852	0.9199
Acadia, LA		
Lafayette, LA		
St. Landry, LA		
St. Martin, LA		
3920 Lafayette, IN	0.9091	0.9368
Clinton, IN		
Tippecanoe, IN		
3960 [2] Lake Charles, LA	0.7921	0.8525
Calcasieu, LA		
3980 Lakeland-Winter Haven, FL	0.8904	0.9236
Polk, FL		
4000 Lancaster, PA	0.9274	0.9497
Lancaster, PA		
4040 Lansing-East Lansing, MI	0.9873	0.9913
Clinton, MI		
Eaton, MI		
Ingham, MI		
4080 Laredo, TX	0.7637	0.8314
Webb, TX		
4100 Las Cruces, NM	0.8744	0.9122
Dona Ana, NM		
4120 [1] Las Vegas, NV–AZ	1.0876	1.0592
Mohave, AZ		
Clark, NV		
Nye, NV		
4150 Lawrence, KS	0.8272	0.8782
Douglas, KS		
4200 Lawton, OK	0.9156	0.9414
Comanche, OK		
4243 Lewiston-Auburn, ME	0.9064	0.9349
Androscoggin, ME		
4280 Lexington, KY	0.8921	0.9248
Bourbon, KY		
Clark, KY		
Fayette, KY		
Jessamine, KY		
Madison, KY		
Scott, KY		
Woodford, KY		
4320 Lima, OH	0.9634	0.9748
Allen, OH		
Auglaize, OH		
4360 Lincoln, NE	0.9808	0.9868
Lancaster, NE		
4400 Little Rock-North Little Rock, AR	0.8959	0.9275
Faulkner, AR		
Lonoke, AR		
Pulaski, AR		
Saline, AR		
4420 Longview-Marshall, TX	0.8816	0.9173
Gregg, TX		
Harrison, TX		
Upshur, TX		
4480 [1] Los Angeles-Long Beach, CA	1.1955	1.1301
Los Angeles, CA		
4520 Louisville, KY–IN	0.9395	0.9582
Clark, IN		
Floyd, IN		
Harrison, IN		
Scott, IN		
Bullitt, KY		
Jefferson, KY		
Oldham, KY		
4600 Lubbock, TX	0.8828	0.9182
Lubbock, TX		
4640 Lynchburg, VA	0.9218	0.9458
Amherst, VA		
Bedford, VA		
Bedford City, VA		
Campbell, VA		
Lynchburg City, VA		
4680 Macon, GA	0.9046	0.9336
Bibb, GA		
Houston, GA		
Jones, GA		
Peach, GA		
Twiggs, GA		
4720 Madison, WI	1.0354	1.0241
Dane, WI		
4800 [2] Mansfield, OH	0.8778	0.9146
Crawford, OH		
Richland, OH		
4840 Mayaguez, PR	0.4617	0.5891
Anasco, PR		
Cabo Rojo, PR		
Hormigueros, PR		
Mayaguez, PR		
Sabana Grande, PR		
San German, PR		
4880 McAllen-Edinburg-Mission, TX	0.8403	0.8877
Hidalgo, TX		
4890 Medford-Ashland, OR	1.0438	1.0298
Jackson, OR		
4900 Melbourne-Titusville-Palm Bay, FL	0.9713	0.9803
Brevard, Fl		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
4920 [1 2] Memphis, TN–AR–MS (TN Hospitals)	0.7980	0.8568
Crittenden, AR		
DeSoto, MS		
Fayette, TN		
Shelby, TN		
Tipton, TN		
4920 [1 2] Memphis, TN–AR–MS (AR Hospitals)	0.7538	0.8240
Crittenden, AR		
DeSoto, MS		
Fayette, TN		
Shelby, TN		
Tipton, TN		
4920 [1 2] Memphis, TN–AR–MS (MS Hospitals)	0.7608	0.8293
Crittenden, AR		
DeSoto, MS		
Fayette, TN		
Shelby, TN		
Tipton, TN		
4940 [2] Merced, CA	0.9966	0.9977
Merced, CA		
5000 [1] Miami, FL	1.0148	1.0101
Dade, FL		
5015 [1] Middlesex-Somerset-Hunterdon, NJ	1.0342	1.0233
Hunterdon, NJ		
Middlesex, NJ		
Somerset, NJ		
5080 [1] Milwaukee-Waukesha, WI	0.9803	0.9865
Milwaukee, WI		
Ozaukee, WI		
Washington, WI		
Waukesha, WI		
5120 [1] Minneapolis-St. Paul, MN–WI	1.1118	1.0753
Anoka, MN		
Carver, MN		
Chisago, MN		
Dakota, MN		
Hennepin, MN		
Isanti, MN		
Ramsey, MN		
Scott, MN		
Sherburne, MN		
Washington, MN		
Wright, MN		
Pierce, WI		
St. Croix, WI		
5140 Missoula, MT	0.9462	0.9628
Missoula, MT		
5160 Mobile, AL	0.8205	0.8733
Baldwin, AL		
Mobile, AL		
5170 Modesto, CA	1.0481	1.0327
Stanislaus, CA		
5190 [1] Monmouth-Ocean, NJ	1.1552	1.1038
Monmouth, NJ		
Ocean, NJ		
5200 Monroe, LA	0.8467	0.8923
Ouachita, LA		
5240 [2] Montgomery, AL	0.7610	0.8294
Autauga, AL		
Elmore, AL		
Montgomery, AL		
5280 Muncie, IN	1.0734	1.0497
Delaware, IN		
5330 Myrtle Beach, SC	0.8658	0.9060
Horry, SC		
5345 Naples, FL	0.9396	0.9582
Collier, FL		
5360 [1] Nashville, TN	0.9201	0.9446
Cheatham, TN		
Davidson, TN		
Dickson, TN		
Robertson, TN		
Rutherford TN		
Sumner, TN		
Williamson, TN		
Wilson, TN		
5380 [1] Nassau-Suffolk, NY	1.3089	1.2024
Nassau, NY		
Suffolk, NY		
5483 [1] New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2135	1.1417
Fairfield, CT		
New Haven, CT		
5523 New London-Norwich, CT	1.1984	1.1319
New London, CT		
5560 [1] New Orleans, LA	0.9283	0.9503
Jefferson, LA		
Orleans, LA		
Plaquemines, LA		
St. Bernard, LA		
St. Charles, LA		
St. James, LA		
St. John The Baptist, LA		
St. Tammany, LA		
5600 [1] New York, NY	1.4445	1.2864
Bronx, NY		
Kings, NY		
New York, NY		
Putnam, NY		
Queens, NY		
Richmond, NY		
Rockland, NY		
Westchester, NY		
5640 [1] Newark, NJ	1.0717	1.0486
Essex, NJ		
Morris, NJ		
Sussex, NJ		
Union, NJ		
Warren, NJ		
5660 Newburgh, NY–PA	1.0946	1.0639
Orange, NY		
Pike, PA		
5720 [1] Norfolk-Virginia Beach-Newport News, VA–NC	0.8429	0.8896
Currituck, NC		
Chesapeake City, VA		
Gloucester, VA		
Hampton City, VA		
Isle of Wight, VA		
James City, VA		
Mathews, VA		
Newport News City, VA		
Norfolk City, VA		
Poquoson City, VA		
Portsmouth City, VA		
Suffolk City, VA		
Virginia Beach City, VA		
Williamsburg City, VA		
York, VA		
5775 [1] Oakland, CA	1.5051	1.3231
Alameda, CA		
Contra Costa, CA		
5790 Ocala, FL	0.8904	0.9236
Marion, FL		
5800 Odessa-Midland, TX	0.9168	0.9422
Ector, TX		
Midland, TX		
5880 [1] Oklahoma City, OK	0.8910	0.9240
Canadian, OK		
Cleveland, OK		
Logan, OK		
McClain, OK		
Oklahoma, OK		
Pottawatomie, OK		
5910 Olympia, WA	1.0787	1.0532
Thurston, WA		
5920 Omaha, NE–IA	0.9707	0.9798
Pottawattamie, IA		
Cass, NE		
Douglas, NE		
Sarpy, NE		
Washington, NE		
5945 [1] Orange County, CA	1.1560	1.1044
Orange, CA		
5960 [1] Orlando, FL	0.9959	0.9972
Lake, FL		
Orange, FL		
Osceola, FL		
Seminole, FL		
5990 [2] Owensboro, KY	0.8017	0.8595
Daviess, KY		
6015 Panama City, FL	0.9129	0.9395
Bay, FL		
6020 [2] Parkersburg-Marietta, WV–OH (WV Hospitals)	0.8321	0.8817
Washington, OH		
Wood, WV		
6020 [2] Parkersburg-Marietta, WV–OH (OH Hospitals)	0.8778	0.9146
Washington, OH		
Wood, WV		
6080 [2] Pensacola, FL	0.8904	0.9236
Escambia, FL		
Santa Rosa, FL		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
6120 Peoria-Pekin, IL	0.8687	0.9081
Peoria, IL		
Tazewell, IL		
Woodford, IL		
6160 [1] Philadelphia, PA–NJ	1.0660	1.0447
Burlington, NJ		
Camden, NJ		
Gloucester, NJ		
Salem, NJ		
Bucks, PA		
Chester, PA		
Delaware, PA		
Montgomery, PA		
Philadelphia, PA		
6200 [1] Phoenix-Mesa, AZ	0.9532	0.9677
Maricopa, AZ		
Pinal, AZ		
6240 Pine Bluff, AR	0.7866	0.8484
Jefferson, AR		
6280 [1] Pittsburgh, PA	0.9818	0.9875
Allegheny, PA		
Beaver, PA		
Butler, PA		
Fayette, PA		
Washington, PA		
Westmoreland, PA		
6323 [2] Pittsfield, MA	1.1348	1.0905
Berkshire, MA		
6340 Pocatello, ID	1.0819	1.0554
Bannock, ID		
6360 Ponce, PR	0.4347	0.5652
Guayanilla, PR		
Juana Diaz, PR		
Penuelas, PR		
Ponce, PR		
Villalba, PR		
Yauco, PR		
6403 Portland, ME	0.9779	0.9848
Cumberland, ME		
Sagadahoc, ME		
York, ME		
6440 [1] Portland-Vancouver, OR–WA	1.0928	1.0627
Clackamas, OR		
Columbia, OR		
Multnomah, OR		
Washington, OR		
Yamhill, OR		
Clark, WA		
6483 [1] Providence-Warwick-Pawtucket, RI	1.0955	1.0645
Bristol, RI		
Kent, RI		
Newport, RI		
Providence, RI		
Washington, RI		
6520 Provo-Orem, UT	0.9972	0.9981
Utah, UT		
6560 [2] Pueblo, CO	0.9179	0.9430
Pueblo, CO		
6580 Punta Gorda, FL	0.9565	0.9700
Charlotte, FL		
6600 Racine, WI	0.9298	0.9514
Racine, WI		
6640 [1] Raleigh-Durham-Chapel Hill, NC	0.9749	0.9827
Chatham, NC		
Durham, NC		
Franklin, NC		
Johnston, NC		
Orange, NC		
Wake, NC		
6660 Rapid City, SD	0.8463	0.8920
Pennington, SD		
6680 Reading, PA	0.9203	0.9447
Berks, PA		
6690 Redding, CA	1.1795	1.1197
Shasta, CA		
6720 Reno, NV	1.0508	1.0345
Washoe, NV		
6740 Richland-Kennewick-Pasco, WA	1.1564	1.1046
Benton, WA		
Franklin, WA		
6760 Richmond-Petersburg, VA	0.9679	0.9779
Charles City County, VA		
Chesterfield, VA		
Colonial Heights City, VA		
Dinwiddie, VA		
Goochland, VA		
Hanover, VA		
Henrico, VA		
Hopewell City, VA		
New Kent, VA		
Petersburg City, VA		
Powhatan, VA		
Prince George, VA		
Richmond City, VA		
6780 [1] Riverside-San Bernardino, CA	1.1159	1.0780
Riverside, CA		
San Bernardino, CA		
6800 Roanoke, VA	0.9543	0.9685
Botetourt, VA		
Roanoke, VA		
Roanoke City, VA		
Salem City, VA		
6820 Rochester, MN	1.1361	1.0913
Olmsted, MN		
6840 [1] Rochester, NY	0.8846	0.9195
Genesee, NY		
Livingston, NY		
Monroe, NY		
Ontario, NY		
Orleans, NY		
Wayne, NY		
6880 Rockford, IL	0.8904	0.9236
Boone, IL		
Ogle, IL		
Winnebago, IL		
6895 Rocky Mount, NC	0.8875	0.9215
Edgecombe, NC		
Nash, NC		
6920 [1] Sacramento, CA	1.2003	1.1332
El Dorado, CA		
Placer, CA		
Sacramento, CA		
6960 Saginaw-Bay City-Midland, MI	0.9475	0.9637
Bay, MI		
Midland, MI		
Saginaw, MI		
6980 St. Cloud, MN	1.0164	1.0112
Benton, MN		
Stearns, MN		
7000 St. Joseph, MO	0.9245	0.9477
Andrew, MO		
Buchanan, MO		
7040 [1] St. Louis, MO–IL	0.9114	0.9384
Clinton, IL		
Jersey, IL		
Madison, IL		
Monroe, IL		
St. Clair, IL		
Franklin, MO		
Jefferson, MO		
Lincoln, MO		
St. Charles, MO		
St. Louis, MO		
St. Louis City, MO		
Warren, MO		
7080 [2] Salem, OR	1.0300	1.0204
Marion, OR		
Polk, OR		
7120 Salinas, CA	1.4649	1.2988
Monterey, CA		
7160 [1] Salt Lake City-Ogden, UT	0.9661	0.9767
Davis, UT		
Salt Lake, UT		
Weber, UT		
7200 San Angelo, TX	0.7747	0.8396
Tom Green, TX		
7240 [1] San Antonio, TX	0.8087	0.8647
Bexar, TX		
Comal, TX		
Guadalupe, TX		
Wilson, TX		
7320 [1] San Diego, CA	1.1901	1.1266
San Diego, CA		
7360 [1] San Francisco, CA	1.4433	1.2857
Marin, CA		
San Francisco, CA		
San Mateo, CA		
7400 [1] San Jose, CA	1.4376	1.2822
Santa Clara, CA		
7440 [1] San Juan-Bayamon, PR	0.4691	0.5955
Aguas Buenas, PR		
Barceloneta, PR		
Bayamon, PR		
Canovanas, PR		
Carolina, PR		
Catano, PR		
Ceiba, PR		
Comerio, PR		
Corozal, PR		
Dorado, PR		
Fajardo, PR		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Florida, PR Guaynabo, PR Humacao, PR Juncos, PR Los Piedras, PR Loiza, PR Luguillo, PR Manati, PR Morovis, PR Naguabo, PR Naranjito, PR Rio Grande, PR San Juan, PR Toa Alta, PR Toa Baja, PR Trujillo Alto, PR Vega Alta, PR Vega Baja, PR Yabucoa, PR		
7460 San Luis Obispo-Atascadero-Paso Robles, CA San Luis Obispo, CA	1.0755	1.0511
7480 Santa Barbara-Santa Maria-Lompoc, CA Santa Barbara, CA	1.0728	1.0493
7485 Santa Cruz-Watsonville, CA Santa Cruz, CA	1.4736	1.3041
7490 Santa Fe, NM Los Alamos, NM Santa Fe, NM	0.9383	0.9573
7500 Santa Rosa, CA Sonoma, CA	1.3182	1.2083
7510 Sarasota-Bradenton, FL Manatee, FL Sarasota, FL	0.9670	0.9773
7520 Savannah, GA Bryan, GA Chatham, GA Effingham, GA	0.8689	0.9083
7560 [2] Scranton-Wilkes-Barre-Hazleton, PA Columbia, PA Lackawanna, PA Luzerne, PA Wyoming, PA	0.8686	0.9080
7600 [1] Seattle-Bellevue-Everett, WA Island, WA King, WA Snohomish, WA	1.1134	1.0763
7610 [2] Sharon, PA Mercer, PA	0.8686	0.9080
7620 [2] Sheboygan, WI Sheboygan, WI	0.9073	0.9356
7640 Sherman-Denison, TX Grayson, TX	0.8619	0.9032
7680 Shreveport-Bossier City, LA Bossier, LA Caddo, LA Webster, LA	0.8853	0.9200
7720 Sioux City, IA–NE Woodbury, IA Dakota, NE	0.8571	0.8998
7760 Sioux Falls, SD Lincoln, SD Minnehaha, SD	0.8890	0.9226
7800 South Bend, IN St. Joseph, IN	1.0233	1.0159
7840 Spokane, WA Spokane, WA	1.1979	1.1316
7880 Springfield, IL Menard, IL Sangamon, IL	0.8744	0.9122
7920 Springfield, MO Christian, MO Greene, MO Webster, MO	0.8357	0.8843
8003 [2] Springfield, MA Hampden, MA Hampshire, MA	1.1348	1.0905
8050 State College, PA Centre, PA	0.9114	0.9384
8080 [2] Steubenville-Weirton, OH–WV (OH Hospitals) Jefferson, OH Brooke, WV Hancock, WV	0.8778	0.9146
8080 Steubenville-Weirton, OH–WV (WV Hospitals) Jefferson, OH Brooke, WV Hancock, WV	0.8658	0.9060
8120 Stockton-Lodi, CA San Joaquin, CA	1.0711	1.0482
8140 [2] Sumter, SC Sumter, SC	0.8445	0.8907
8160 Syracuse, NY Cayuga, NY Madison, NY Onondaga, NY Oswego, NY	0.9662	0.9767
8200 Tacoma, WA Pierce, WA	1.1658	1.1108
8240 [2] Tallahassee, FL Gadsden, FL Leon, FL	0.8904	0.9236
8280 [1] Tampa-St. Petersburg-Clearwater, FL Hernando, FL Hillsborough, FL Pasco, FL Pinellas, FL	0.9111	0.9382
8320 [2] Terre Haute, IN Clay, IN Vermillion, IN Vigo, IN	0.8807	0.9167
8360 Texarkana, AR-Texarkana, TX Miller, AR Bowie, TX	0.7962	0.8555
8400 Toledo, OH Fulton, OH Lucas, OH Wood, OH	0.9705	0.9797
8440 Topeka, KS Shawnee, KS	0.9134	0.9399
8480 Trenton, NJ Mercer, NJ	0.9919	0.9944
8520 Tucson, AZ Pima, AZ	0.8826	0.9180
8560 Tulsa, OK Creek, OK Osage, OK Rogers, OK Tulsa, OK Wagoner, OK	0.8698	0.9089
8600 Tuscaloosa, AL Tuscaloosa, AL	0.8081	0.8642
8640 Tyler, TX Smith, TX	0.9270	0.9494
8680 [2] Utica-Rome, NY Herkimer, NY Oneida, NY	0.8558	0.8989
8720 Vallejo-Fairfield-Napa, CA Napa, CA Solano, CA	1.2672	1.1761
8735 Ventura, CA Ventura, CA	1.0586	1.0398
8750 Victoria, TX Victoria, TX	0.8133	0.8680
8760 Vineland-Millville-Bridgeton, NJ Cumberland, NJ	1.0462	1.0314
8780 [2] Visalia-Tulare-Porterville, CA Tulare, CA	0.9966	0.9977
8800 Waco, TX McLennan, TX	0.8402	0.8876
8840 [1] Washington, DC–MD–VA–WV District of Columbia, DC Calvert, MD Charles, MD Frederick, MD Montgomery, MD Prince Georges, MD Alexandria City, VA Arlington, VA Clarke, VA Culpeper, VA Fairfax, VA Fairfax City, VA Falls Church City, VA Fauquier, VA Fredericksburg City, VA King George, VA Loudoun, VA Manassas City, VA Manassas Park City, VA Prince William, VA Spotsylvania, VA Stafford, VA	1.0832	1.0563

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Warren, VA		
Berkeley, WV		
Jefferson, WV		
8920 Waterloo-Cedar Falls, IA	0.8932	0.9256
Black Hawk, IA		
8940 Wausau, WI	0.9511	0.9663
Marathon, WI		
8960 [1] West Palm Beach-Boca Raton, FL	0.9658	0.9765
Palm Beach, FL		
9000 [2] Wheeling, WV–OH (WV Hospitals)	0.8321	0.8817
Belmont, OH		
Marshall, WV		
Ohio, WV		
9000 [2] Wheeling, WV–OH (OH Hospitals)	0.8778	0.9146
Belmont, OH		
Marshall, WV		
Ohio, WV		
9040 Wichita, KS	0.9574	0.9706
Butler, KS		
Harvey, KS		
Sedgwick, KS		
9080 Wichita Falls, TX	0.7668	0.8337
Archer, TX		
Wichita, TX		
9140 [2] Williamsport, PA	0.8686	0.9080
Lycoming, PA		
9160 Wilmington-Newark, DE–MD	1.1281	1.0860
New Castle, DE		
Cecil, MD		
9200 Wilmington, NC	0.9474	0.9637
New Hanover, NC		
Brunswick, NC		
9260 [2] Yakima, WA	1.0763	1.0516
Yakima, WA		
9270 Yolo, CA	1.0261	1.0178
Yolo, CA		
9280 York, PA	0.9427	0.9604
York, PA		
9320 Youngstown-Warren, OH	0.9604	0.9727
Columbiana, OH		
Mahoning, OH		
Trumbull, OH		
9340 Yuba City, CA	1.0820	1.0555
Sutter, CA		
Yuba, CA		
9360 Yuma, AZ	0.9605	0.9728
Yuma, AZ		

[1] Large Urban Area

[2] Hospitals geographically located in the area are assigned the statewide rural wage index for FY 2000.

TABLE 4B.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR RURAL AREAS

Nonurban Area	Wage Index	GAF
Alabama	0.7610	0.8294
Alaska	1.2681	1.1766
Arizona	0.8400	0.8875
Arkansas	0.7538	0.8240
California	0.9966	0.9977
Colorado	0.9179	0.9430
Connecticut	1.1798	1.1199
Delaware	0.9349	0.9549
Florida	0.8904	0.9236
Georgia	0.8510	0.8954
Hawaii	1.1438	1.0964
Idaho	0.8831	0.9184
Illinois	0.8320	0.8817
Indiana	0.8807	0.9167
Iowa	0.8196	0.8726
Kansas	0.7710	0.8369
Kentucky	0.8017	0.8595
Louisiana	0.7921	0.8525
Maine	0.8813	0.9171
Maryland	0.8717	0.9103
Massachusetts	1.1348	1.0905
Michigan	0.9133	0.9398
Minnesota	0.9116	0.9386
Mississippi	0.7608	0.8293
Missouri	0.7766	0.8410
Montana	0.9017	0.9316
Nebraska	0.8265	0.8777
Nevada	0.9354	0.9553
New Hampshire	0.9995	0.9997
New Jersey [1]	0.0000	.....
New Mexico	0.8425	0.8893
New York	0.8558	0.8989
North Carolina	0.8553	0.8985
North Dakota	0.7698	0.8360
Ohio	0.8778	0.9146
Oklahoma	0.7622	0.8303
Oregon	1.0300	1.0204
Pennsylvania	0.8686	0.9080
Puerto Rico	0.4232	0.5550
Rhode Island [1]	0.0000	.....
South Carolina	0.8445	0.8907
South Dakota	0.7786	0.8425
Tennessee	0.7980	0.8568
Texas	0.7523	0.8229
Utah	0.9182	0.9432
Vermont	0.9538	0.9681
Virginia	0.8361	0.8846
Washington	1.0763	1.0516
West Virginia	0.8321	0.8817
Wisconsin	0.9073	0.9356
Wyoming	0.9046	0.9336

[1] All counties within the State are classified as urban.

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED

Area	Wage index	GAF
Abilene, TX	0.8318	0.8815
Akron, OH	1.0181	1.0124
Albany, GA	1.0783	1.0530
Alexandria, LA	0.8262	0.8774
Amarillo, TX	0.8663	0.9064

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Anchorage, AK	1.2967	1.1947
Ann Arbor, MI	1.1177	1.0792
Atlanta, GA	0.9945	0.9962
Atlantic-Cape May, NJ	1.0998	1.0673
Augusta-Aiken, GA–SC	0.9226	0.9463
Baltimore, MD	0.9485	0.9644
Barnstable-Yarmouth, MA	1.3694	1.2402
Baton Rouge, LA	0.8856	0.9202
Benton Harbor, MI	0.9133	0.9398
Bergen-Passaic, NJ	1.1727	1.1153
Billings, MT	0.9577	0.9708
Binghamton, NY	0.8723	0.9107
Birmingham, AL	0.8574	0.9000
Bismarck, ND	0.8016	0.8595
Bloomington, IN	0.9294	0.9511
Boise City, ID	0.9133	0.9398
Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH (NH, RI, and VT Hospitals)	1.1239	1.0833
Bryan-College Station, TX	0.8306	0.8806
Burlington, VT (VT Hospitals)	0.9538	0.9681
Burlington, VT (NY Hospital)	0.9238	0.9472
Casper, WY	0.9046	0.9336
Champaign-Urbana, IL	0.9353	0.9552
Charleston-North Charleston, SC	0.9094	0.9370
Charleston, WV	0.9003	0.9306
Charlotte-Gastonia-Rock Hill, NC–SC	0.9307	0.9520
Chattanooga, TN–GA	0.9795	0.9859
Chicago, IL	1.0902	1.0609
Cincinnati, OH–KY–IN	0.9330	0.9536
Clarksville-Hopkinsville, TN–KY	0.8393	0.8869
Cleveland-Lorain-Elyria, OH	0.9649	0.9758
Columbia, MO	0.8600	0.9019
Columbia, SC	0.9517	0.9667
Columbus, OH	0.9741	0.9822
Dallas, TX	0.9220	0.9459
Danville, VA	0.8361	0.8846
Davenport-Moline—Rock Island, IA–IL	0.9021	0.9319
Dayton-Springfield, OH	0.9519	0.9668
Denver, CO	1.0032	1.0022
Des Moines, IA	0.9087	0.9365
Dothan, AL	0.8105	0.8660
Dover, DE	0.9349	0.9549
Duluth-Superior, MN–WI	1.0201	1.0137
Eau Claire, WI	0.9073	0.9356
Erie, PA	0.9021	0.9319
Eugene-Springfield, OR	1.1026	1.0692
Fargo-Moorhead, ND–MN (ND and SD Hospitals)	0.8597	0.9017
Fayetteville, NC	0.8553	0.8985
Flagstaff, AZ–UT	1.0678	1.0459
Flint, MI	1.1189	1.0800
Florence, AL	0.7621	0.8302
Florence, SC	0.8838	0.9189

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Fort Collins-Loveland, CO	1.1005	1.0678
Ft. Lauderdale, FL	1.0228	1.0156
Fort Pierce-Port St. Lucie, FL	0.9672	0.9774
Fort Smith, AR–OK	0.8634	0.9043
Fort Wayne, IN	0.8807	0.9167
Forth Worth-Arlington, TX	0.9442	0.9614
Gadsden, AL	0.8491	0.8940
Grand Forks, ND–MN	1.0042	1.0029
Grand Junction, CO	0.9601	0.9725
Grand Rapids-Muskegon-Holland, MI	1.0150	1.0102
Great Falls, MT	0.9447	0.9618
Greeley, CO	0.9642	0.9753
Green Bay, WI	0.9359	0.9556
Greensboro-Winston-Salem-High Point, NC	0.9187	0.9436
Greenville, NC	0.9244	0.9476
Greenville-Spartanburg-Anderson, SC	0.9160	0.9417
Harrisburg-Lebanon-Carlisle, PA	0.9360	0.9557
Hartford, CT (MA Hospital)	1.1530	1.1024
Hattiesburg, MS	0.7608	0.8293
Hickory-Morganton-Lenoir, NC	0.8766	0.9138
Honolulu, HI	1.1905	1.1268
Houston, TX	0.9661	0.9767
Huntington-Ashland, WV–KY–OH	0.9721	0.9808
Huntsville, AL	0.8882	0.9220
Indianapolis, IN	0.9314	0.9525
Jackson, MS	0.8776	0.9145
Jackson, TN	0.8939	0.9261
Jacksonville, FL	0.8995	0.9300
Jersey City, NJ	1.0985	1.0664
Johnson City-Kingsport-Bristol, TN–VA	0.8412	0.8883
Joplin, MO	0.7924	0.8527
Kalamazoo-Battlecreek, MI	1.0144	1.0098
Kansas City, KS–MO	0.9629	0.9744
Knoxville, TN	0.8422	0.8890
Kokomo, IN	0.9190	0.9438
Lafayette, LA	0.8852	0.9199
Lansing-East Lansing, MI	0.9873	0.9913
Las Cruces, NM	0.8623	0.9035
Las Vegas, NV–AZ	1.0876	1.0592
Lexington, KY	0.8769	0.9140
Lima, OH	0.9497	0.9653
Lincoln, NE	0.9808	0.9868
Little Rock-North Little Rock, AR	0.8841	0.9191
Longview-Marshall, TX	0.8403	0.8877
Los Angeles-Long Beach, CA	1.1955	1.1301
Louisville, KY–IN	0.9395	0.9582
Lynchburg, VA	0.9090	0.9368
Macon, GA	0.9046	0.9336
Madison, WI	1.0354	1.0241
Mansfield, OH	0.8778	0.9146
Memphis, TN–AR–MS (AR Hospital)	0.7538	0.8240
Memphis, TN–AR–MS (MS Hospital)	0.7608	0.8293
Milwaukee-Waukesha, WI	0.9803	0.9865
Minneapolis-St. Paul, MN–WI	1.1118	1.0753
Missoula, MT	0.9462	0.9628
Mobile, AL	0.8205	0.8733
Monmouth-Ocean, NJ	1.1552	1.1038
Montgomery, AL	0.7610	0.8294
Myrtle Beach, SC (NC Hospital)	0.8553	0.8985
Nashville, TN	0.9078	0.9359
New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2135	1.1417
New London-Norwich, CT	1.1861	1.1240
New Orleans, LA	0.9283	0.9503
New York, NY	1.4445	1.2864
Newburgh, NY–PA	0.9919	0.9944
Norfolk-Virginia Beach-Newport News, VA–NC (NC Hospital)	0.8553	0.8985
Oakland, CA	1.5051	1.3231
Ocala, FL	0.8904	0.9236
Odessa-Midland, TX	0.9058	0.9345
Oklahoma City, OK	0.8910	0.9240
Omaha, NE–IA	0.9707	0.9798
Orange County, CA	1.1560	1.1044
Orlando, FL	0.9856	0.9901
Peoria-Pekin, IL	0.8687	0.9081
Pine Bluff, AR	0.7762	0.8407
Pittsburgh, PA	0.9713	0.9803
Pittsfield, MA (VT Hospital)	1.0032	1.0022
Pocatello, ID	0.9265	0.9491
Portland, ME	0.9622	0.9740
Portland-Vancouver, ORWA	1.0928	1.0627
Provo-Orem, UT	0.9972	0.9981
Raleigh-Durham-Chapel Hill, NC	0.9749	0.9827
Rapid City, SD	0.8463	0.8920
Redding, CA	1.1795	1.1197
Reno, NV	1.0508	1.0345
Richland-Kennewick-Pasco, WA	1.1267	1.0851
Roanoke, VA	0.9543	0.9685
Rochester, MN	1.1361	1.0913
Rockford, IL	0.8904	0.9236
Sacramento, CA	1.2003	1.1332
Saginaw-Bay City-Midland, MI	0.9475	0.9637
St. Cloud, MN	1.0164	1.0112
St. Joseph, MO	0.9036	0.9329
St. Louis, MO–IL	0.9114	0.9384
Salinas, CA	1.4649	1.2988
Salt Lake City-Ogden, UT	0.9661	0.9767
San Diego, CA	1.1901	1.1266
Santa Cruz-Watsonville, CA	1.2834	1.1863
Santa Fe, NM	0.9383	0.9573
Santa Rosa, CA	1.2832	1.1862
Seattle-Bellevue-Everett, WA	1.1134	1.0763
Sherman-Denison, TX	0.8619	0.9032
Sioux City, IA–NE	0.8571	0.8998
South Bend, IN	1.0233	1.0159
Spokane, WA	1.1608	1.1075
Springfield, IL	0.8744	0.9122
Springfield, MO	0.8089	0.8648
Syracuse, NY	0.9662	0.9767
Tampa-St. Petersburg-Clearwater, FL	0.9111	0.9382
Texarkana, AR-Texarkana, TX	0.7962	0.8555
Toledo, OH	0.9705	0.9797
Topeka, KS	0.9134	0.9399
Tucson, AZ	0.8826	0.9180
Tulsa, OK	0.8698	0.9089
Tuscaloosa, AL	0.8081	0.8642
Tyler, TX	0.9077	0.9358
Victoria, TX	0.8133	0.8680
Washington, DC–MD–VA–WV	1.0832	1.0563
Waterloo-Cedar Falls, IA	0.8932	0.9256
Wausau, WI	0.9511	0.9663
Wichita, KS	0.9290	0.9508
Rural Alabama	0.7610	0.8294
Rural Florida	0.8904	0.9236
Rural Illinois	0.8320	0.8817
Rural Louisiana	0.7921	0.8525
Rural Michigan	0.9133	0.9398
Rural Minnesota	0.9116	0.9386
Rural Missouri	0.7766	0.8410
Rural Montana	0.9017	0.9316
Rural Oregon	1.0300	1.0204
Rural Texas (OK Hospital)	0.7622	0.8303
Rural Washington	1.0763	1.0516
Rural West Virginia	0.8321	0.8817
Rural Wisconsin	0.9073	0.9356
Rural Wyoming	0.8905	0.9237

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS

Urban area	Average hourly wage
Abilene, TX	18.0486
Aguadilla, PR	10.4725
Akron, OH	22.9067
Albany, GA	25.7222
Albany-Schenectady-Troy, NY	18.5809
Albuquerque, NM	20.3203
Alexandria, LA	17.8813
Allentown-Bethlehem-Easton, PA	21.3707
Altoona, PA	20.0974
Amarillo, TX	18.7968
Anchorage, AK	27.9780
Ann Arbor, MI	24.4830
Anniston, AL	18.0781
Appleton-Oshkosh-Neenah, WI	19.7485
Arecibo, PR	9.8505

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Asheville, NC	20.6721
Athens, GA	21.3273
Atlanta, GA	21.5792
Atlantic-Cape May, NJ	24.3464
Auburn-Opelika, AL	17.7284
Augusta-Aiken, GA–SC	20.0184
Austin-San Marcos, TX	20.4753
Bakersfield, CA	21.1738
Baltimore, MD	20.4985
Bangor, ME	20.8595
Barnstable-Yarmouth, MA	30.2448
Baton Rouge, LA	19.4498
Beaumont-Port Arthur, TX	18.1415
Bellingham, WA	24.9338
Benton Harbor, MI	19.0728
Bergen-Passaic, NJ	25.6998
Billings, MT	20.6821
Biloxi-Gulfport-Pascagoula, MS	17.9703
Binghamton, NY	18.9273
Birmingham, AL	18.5525
Bismarck, ND	17.1607
Bloomington,IN	19.2118
Bloomington-Normal, IL	20.0254
Boise City, ID	19.7312
Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH	24.3877
Boulder-Longmont, CO	21.2598
Brazoria, TX	18.9889
Bremerton, WA	24.0180
Brownsville-Harlingen-San Benito, TX	19.0812
Bryan-College Station, TX	17.9622
Buffalo-Niagara Falls, NY	20.7580
Burlington, VT	23.6135
Caguas, PR	9.9614
Canton-Massillon, OH	18.8702
Casper, WY	19.0746
Cedar Rapids, IA	18.2191
Champaign-Urbana, IL	20.1555
Charleston-North Charleston, SC	19.7335
Charleston, WV	20.2316
Charlotte-Gastonia-Rock Hill, NC–SC	20.1566
Charlottesville, VA	23.3140
Chattanooga, TN–GA	21.8793
Cheyenne, WY	18.3270
Chicago, IL	23.9273
Chico-Paradise, CA	23.1834
Cincinnati, OH–KY–IN	20.2453
Clarksville-Hopkinsville, TN–KY	17.9692
Cleveland-Lorain-Elyria, OH	20.9457
Colorado Springs, CO	21.1998
Columbia, MO	18.6606
Columbia, SC	20.9200
Columbus, GA-AL	18.6769
Columbus, OH	21.1363
Corpus Christi, TX	18.4356
Corvallis, OR	24.8210
Cumberland, MD-WV	18.3080
Dallas, TX	20.0063
Danville, VA	18.5023
Davenport-Moline-Rock Island, IA–IL	19.5749
Dayton-Springfield, OH	20.6558
Daytona Beach, FL	20.0411
Decatur, AL	18.7206
Decatur, IL	18.6640
Denver, CO	21.7676
Des Moines, IA	19.9873
Detroit, MI	21.8228
Dothan, AL	17.4329
Dover, DE	23.9388
Dubuque, IA	19.3729
Duluth-Superior, MN–WI	22.0638
Dutchess County, NY	22.3565
Eau Claire, WI	17.5107
El Paso, TX	19.9962
Elkhart-Goshen, IN	20.7202
Elmira, NY	18.7582
Enid, OK	19.0534
Erie, PA	19.5749
Eugene-Springfield, OR	23.9117
Evansville, Henderson, IN–KY	17.3973
Fargo-Moorhead, ND-MN	19.1596
Fayetteville, NC	18.7438
Fayetteville-Springdale-Rogers, AR	17.3575
Flagstaff, AZ–UT	23.5301
Flint, MI	24.1126
Florence, AL	16.4548
Florence, SC	19.1780
Fort Collins-Loveland, CO	23.3920
Fort Lauderdale, FL	22.1262
Fort Myers-Cape Coral, FL	19.7718
Fort Pierce-Port St. Lucie, FL	20.7352
Fort Smith, AR-OK	19.2209
Fort Walton Beach, FL	20.2902
Fort Wayne, IN	18.9774
Fort Worth-Arlington, TX	20.4871
Fresno, CA	22.0987
Gadsden, AL	18.4245
Gainesville, FL	22.3195
Galveston-Texas City, TX	22.3151
Gary, IN	20.4033
Glens Falls, NY	18.2226
Goldsboro, NC	18.4077
Grand Forks, ND–MN	22.1477
Grand Junction, CO	20.0924
Grand Rapids-Muskegon-Holland, MI	22.2552
Great Falls, MT	19.9908
Greeley, CO	21.4997
Green Bay, WI	20.3069
Greensboro-Winston-Salem-High Point, NC	19.9482
Greenville, NC	20.5145
Greenville-Spartanburg-Anderson, SC	19.8759
Hagerstown, MD	20.9333
Hamilton-Middletown, OH	19.2938
Harrisburg-Lebanon-Carlisle, PA	20.5425
Hartford, CT	24.8641
Hattiesburg, MS	16.4489
Hickory-Morganton-Lenoir, NC	19.9965
Honolulu, HI	25.7981
Houma, LA	17.8310
Houston, TX	20.9625
Huntington-Ashland, WV–KY–OH	21.6140
Huntsville, AL	19.7211
Indianapolis, IN	20.2095
Iowa City, IA	21.1537
Jackson, MI	19.4234
Jackson, MS	19.2901
Jackson, TN	19.3964
Jacksonville, FL	19.5189
Jacksonville, NC	17.0264
Jamestown, NY	17.1320
Janesville-Beloit, WI	21.3868
Jersey City, NJ	23.7469
Johnson City-Kingsport-Bristol, TN–VA	18.0944
Johnstown, PA	20.7614
Jonesboro, AR	18.6323
Joplin, MO	17.0944
Kalamazoo-Battlecreek, MI	22.2348
Kankakee, IL	19.4290
Kansas City, KS–MO	20.8941
Kenosha, WI	21.0547
Killeen-Temple, TX	22.3946
Knoxville, TN	18.1724
Kokomo, IN	19.8136
La Crosse, WI–MN	20.4875
Lafayette, LA	19.1482
Lafayette, IN	19.7271
Lake Charles, LA	16.2042
Lakeland-Winter Haven, FL	20.7380
Lancaster, PA	20.1227
Lansing-East Lansing, MI	21.4235
Laredo, TX	16.5720
Las Cruces, NM	18.9734
Las Vegas, NV-AZ	23.6000
Lawrence, KS	17.9498
Lawton, OK	19.8665
Lewiston-Auburn, ME	19.6684
Lexington, KY	19.3574
Lima, OH	20.9055
Lincoln, NE	21.1236
Little Rock-North Little Rock, AR	19.4396
Longview-Marshall, TX	19.1300
Los Angeles-Long Beach, CA	25.8459
Louisville, KY–IN	20.3861
Lubbock, TX	19.1566
Lynchburg, VA	20.0013
Macon, GA	19.6297
Madison, WI	22.4673
Mansfield, OH	19.0435
Mayaguez, PR	10.0185
McAllen-Edinburg-Mission, TX	18.2331
Medford-Ashland, OR	22.6499
Melbourne-Titusville-Palm Bay, FL	21.0752
Memphis, TN–AR–MS	15.8781
Merced, CA	21.1426
Miami, FL	22.0202
Middlesex-Somerset-Hunterdon, NJ	24.8629
Milwaukee-Waukesha, WI	21.2711
Minneapolis-St. Paul, MN–WI	24.1246
Missoula, MT	20.4135
Mobile, AL	17.8029
Modesto, CA	22.7416
Monmouth-Ocean, NJ	24.6814
Monroe, LA	18.3733
Montgomery, AL	16.4427
Muncie, IN	23.2904
Myrtle Beach, SC	18.7864
Naples, FL	20.3889
Nashville, TN	19.9647
Nassau-Suffolk, NY	30.5221
New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	26.9488
New London-Norwich, CT	26.0037
New Orleans, LA	20.1432
New York, NY	31.3439
Newark, NJ	25.6220
Newburgh, NY-PA	23.7525
Norfolk-Virginia Beach-Newport News, VA–NC	18.2637

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Oakland, CA	32.6592
Ocala, FL	19.2230
Odessa-Midland, TX	19.8941
Oklahoma City, OK	19.3346
Olympia, WA	23.4064
Omaha, NE-IA	21.0639
Orange County, CA	25.1808
Orlando, FL	21.6103
Owensboro, KY	16.7178
Panama City, FL	19.8085
Parkersburg-Marietta, WV–OH	17.5453
Pensacola, FL	17.8738
Peoria-Pekin, IL	18.7922
Philadelphia, PA–NJ	23.1316
Phoenix-Mesa, AZ	20.6836
Pine Bluff, AR	17.0672
Pittsburgh, PA	21.3039
Pittsfield, MA	22.6239
Pocatello, ID	23.4749
Ponce, PR	9.4317
Portland, ME	21.2189
Portland-Vancouver, OR–WA	23.7092
Providence-Warwick, RI	23.7714
Provo-Orem, UT	21.5911
Pueblo, CO	18.5332
Punta Gorda, FL	20.7540
Racine, WI	20.1753
Raleigh-Durham-Chapel Hill, NC	21.1552
Rapid City, SD	18.3452
Reading, PA	19.9691
Redding, CA	25.5947
Reno, NV	22.8021
Richland-Kennewick-Pasco, WA	25.0933
Richmond-Petersburg, VA	21.0026
Riverside-San Bernardino, CA	24.4131
Roanoke, VA	20.7061
Rochester, MN	24.6529
Rochester, NY	19.1942
Rockford, IL	19.3204
Rocky Mount, NC	19.2567
Sacramento, CA	26.0102
Saginaw-Bay City-Midland, MI	20.5596
St. Cloud, MN	22.0551
St. Joseph, MO	20.0604
St. Louis, MO–IL	19.7758
Salem, OR	22.3396
Salinas, CA	31.7057
Salt Lake City-Ogden, UT	20.9541
San Angelo, TX	16.8092
San Antonio, TX	17.5486
San Diego, CA	25.8245
San Francisco, CA	31.2006
San Jose, CA	31.3127
San Juan-Bayamon, PR	10.1790
San Luis Obispo-Atascadero-Paso Robles, CA	23.3363
Santa Barbara-Santa Maria-Lompoc, CA	23.2791
Santa Cruz-Watsonville, CA	31.9763
Santa Fe, NM	20.3593
Santa Rosa, CA	28.6042

TABLE 4D.—AVERAGE HOURLY WAGE FOR URBAN AREAS—Continued

Urban area	Average hourly wage
Sarasota-Bradenton, FL	20.9819
Savannah, GA	18.8537
Scranton-Wilkes Barre-Hazleton, PA	18.1723
Seattle-Bellevue-Everett, WA	24.0236
Sharon, PA	17.3633
Sheboygan, WI	18.3680
Sherman-Denison, TX	18.3921
Shreveport-Bossier City, LA	19.2092
Sioux City, IA-NE	18.5977
Sioux Falls, SD	19.2902
South Bend, IN	22.2041
Spokane, WA	25.9937
Springfield, IL	18.9742
Springfield, MO	18.1326
Springfield, MA	23.4382
State College, PA	19.7770
Steubenville-Weirton, OH–WV	18.7875
Stockton-Lodi, CA	23.2417
Sumter, SC	15.4277
Syracuse, NY	20.8181
Tacoma, WA	25.2962
Tallahassee, FL	18.6152
Tampa-St. Petersburg-Clearwater, FL	19.5050
Terre Haute, IN	15.3117
Texarkana, AR-Texarkana, TX	17.0551
Toledo, OH	21.4500
Topeka, KS	19.8204
Trenton, NJ	21.5233
Tucson, AZ	19.0859
Tulsa, OK	18.8729
Tuscaloosa, AL	17.5354
Tyler, TX	20.1140
Utica-Rome, NY	18.2490
Vallejo-Fairfield-Napa, CA	28.7082
Ventura, CA	24.1637
Victoria, TX	17.6229
Vineland-Millville-Bridgeton, NJ	22.7012
Visalia-Tulare-Porterville, CA	21.2165
Waco, TX	18.2321
Washington, DC–MD–VA–WV	23.5031
Waterloo-Cedar Falls, IA	18.4528
Wausau, WI	20.5783
West Palm Beach-Boca Raton, FL	21.1018
Wheeling, OH-WV	16.9649
Wichita, KS	20.7737
Wichita Falls, TX	16.6396
Williamsport, PA	18.2295
Wilmington-Newark, DE–MD	24.4776
Wilmington, NC	20.5573
Yakima, WA	21.7819
Yolo, CA	22.2646
York, PA	20.4558
Youngstown-Warren, OH	20.8393
Yuba City, CA	23.4776
Yuma, AZ	20.8420

TABLE 4E.—AVERAGE HOURLY WAGE FOR RURAL AREAS

Nonurban area	Average hourly wage
Alabama	16.4226
Alaska	27.5158
Arizona	18.2279
Arkansas	16.3570
California	21.6246
Colorado	19.9177
Connecticut	25.5994
Delaware	20.2855
Florida	19.2234
Georgia	18.4650
Hawaii	24.8190
Idaho	19.1619
Illinois	18.0540
Indiana	19.1101
Iowa	17.7834
Kansas	16.7288
Kentucky	17.3951
Louisiana	17.1441
Maine	19.1234
Maryland	18.9146
Massachusetts	24.6234
Michigan	19.7353
Minnesota	19.7808
Mississippi	16.5082
Missouri	16.8219
Montana	19.5658
Nebraska	17.9331
Nevada	20.2962
New Hampshire	21.6890
New Jersey [1]	.....
New Mexico	18.2818
New York	18.5706
North Carolina	18.5592
North Dakota	16.7027
Ohio	19.0464
Oklahoma	16.5386
Oregon	22.3491
Pennsylvania	18.8470
Puerto Rico	9.1823
Rhode Island [1]	.....
South Carolina	18.3244
South Dakota	16.8938
Tennessee	17.3149
Texas	16.3108
Utah	19.9234
Vermont	20.3374
Virginia	18.1413
Washington	23.3538
West Virginia	18.0536
Wisconsin	19.6848
Wyoming	19.6292

[1] All counties within the State are classified as urban.

TABLE 4F.—PUERTO RICO WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF)

Area	Wage index	GAF	Wage index—reclass. hospitals	GAF—reclass. hospitals
Aguadilla, PR	1.0507	1.0344		
Arecibo, PR	0.9883	0.9920		
Caguas, PR	0.9995	0.9997		
Mayaguez, PR	1.0052	1.0036		
Ponce, PR	0.9463	0.9629		
San Juan-Bayamon, PR	1.0213	1.0145		
Rural Puerto Rico	0.9213	0.9454		

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
1	01	SURG	CRANIOTOMY AGE >17 EXCEPT FOR TRAUMA	3.1023	6.3	9.1
2	01	SURG	CRANIOTOMY FOR TRAUMA AGE >17	3.1157	7.3	9.7
3	01	SURG	*CRANIOTOMY AGE 0–17	1.9575	12.7	12.7
4	01	SURG	SPINAL PROCEDURES	2.2879	4.8	7.3
5	01	SURG	EXTRACRANIAL VASCULAR PROCEDURES	1.4334	2.3	3.3
6	01	SURG	CARPAL TUNNEL RELEASE	.8265	2.2	3.2
7	01	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W CC	2.5918	6.9	10.3
8	01	SURG	PERIPH & CRANIAL NERVE & OTHER NERV SYST PROC W/O CC.	1.3987	2.1	3.0
9	01	MED	SPINAL DISORDERS & INJURIES	1.3176	4.8	6.7
10	01	MED	NERVOUS SYSTEM NEOPLASMS W CC	1.2276	4.9	6.7
11	01	MED	NERVOUS SYSTEM NEOPLASMS W/O CC	.8343	3.1	4.2
12	01	MED	DEGENERATIVE NERVOUS SYSTEM DISORDERS	.8916	4.5	6.1
13	01	MED	MULTIPLE SCLEROSIS & CEREBELLAR ATAXIA	.7675	4.1	5.1
14	01	MED	SPECIFIC CEREBROVASCULAR DISORDERS EXCEPT TIA	1.2205	4.8	6.2
15	01	MED	TRANSIENT ISCHEMIC ATTACK & PRECEREBRAL OCCLUSIONS	.7486	2.9	3.6
16	01	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W CC	1.1670	4.6	6.1
17	01	MED	NONSPECIFIC CEREBROVASCULAR DISORDERS W/O CC	.6563	2.7	3.4
18	01	MED	CRANIAL & PERIPHERAL NERVE DISORDERS W CC	.9616	4.3	5.6
19	01	MED	CRANIAL & PERIPHERAL NERVE DISORDERS W/O CC	.6975	2.9	3.7
20	01	MED	NERVOUS SYSTEM INFECTION EXCEPT VIRAL MENINGITIS	2.7645	7.9	10.5
21	01	MED	VIRAL MENINGITIS	1.5003	5.2	6.9
22	01	MED	HYPERTENSIVE ENCEPHALOPATHY	1.0084	3.8	5.0
23	01	MED	NONTRAUMATIC STUPOR & COMA	.8021	3.2	4.2
24	01	MED	SEIZURE & HEADACHE AGE >17 W CC	.9925	3.7	5.0
25	01	MED	SEIZURE & HEADACHE AGE >17 W/O CC	.6045	2.6	3.3
26	01	MED	SEIZURE & HEADACHE AGE 0–17	.6453	2.4	3.2
27	01	MED	TRAUMATIC STUPOR & COMA, COMA >1 HR	1.2871	3.2	5.1
28	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 17 ≥ W CC	1.3124	4.5	6.3
29	01	MED	TRAUMATIC STUPOR & COMA, COMA <1 HR AGE 17 ≥ W/O CC	.7037	2.8	3.7
30	01	MED	*TRAUMATIC STUPOR & COMA, COMA < 1 HR AGE 0–17	.3311	2.0	2.0
31	01	MED	CONCUSSION AGE >17 W CC	.8655	3.1	4.2
32	01	MED	CONCUSSION AGE >17 W/O CC	.5374	2.1	2.7
33	01	MED	*CONCUSSION AGE 0–17	.2080	1.6	1.6
34	01	MED	OTHER DISORDERS OF NERVOUS SYSTEM W CC	1.0108	3.8	5.2
35	01	MED	OTHER DISORDERS OF NERVOUS SYSTEM W/O CC	.6051	2.7	3.4
36	02	SURG	RETINAL PROCEDURES	.6636	1.2	1.4
37	02	SURG	ORBITAL PROCEDURES	1.0020	2.6	3.7
38	02	SURG	PRIMARY IRIS PROCEDURES	.4832	1.8	2.5
39	02	SURG	LENS PROCEDURES WITH OR WITHOUT VITRECTOMY	.5803	1.5	1.9
40	02	SURG	EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE >17	.8625	2.3	3.6
41	02	SURG	*EXTRAOCULAR PROCEDURES EXCEPT ORBIT AGE 0–17	.3370	1.6	1.6
42	02	SURG	INTRAOCULAR PROCEDURES EXCEPT RETINA, IRIS & LENS	.6472	1.6	2.2
43	02	MED	HYPHEMA	.5008	2.6	3.3
44	02	MED	ACUTE MAJOR EYE INFECTIONS	.6293	4.0	5.0
45	02	MED	NEUROLOGICAL EYE DISORDERS	.7031	2.7	3.3
46	02	MED	OTHER DISORDERS OF THE EYE AGE >17 W CC	.7767	3.5	4.6
47	02	MED	OTHER DISORDERS OF THE EYE AGE >17 W/O CC	.4921	2.5	3.3
48	02	MED	*OTHER DISORDERS OF THE EYE AGE 0–17	.2968	2.9	2.9
49	03	SURG	MAJOR HEAD & NECK PROCEDURES	1.8368	3.5	5.0
50	03	SURG	SIALOADENECTOMY	.8531	1.6	2.0
51	03	SURG	SALIVARY GLAND PROCEDURES EXCEPT SIALOADENECTOMY	.7986	1.8	2.6
52	03	SURG	CLEFT LIP & PALATE REPAIR	.8428	1.6	2.1
53	03	SURG	SINUS & MASTOID PROCEDURES AGE >17	1.2137	2.3	3.7

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
54	03	SURG	*SINUS & MASTOID PROCEDURES AGE 0–17	.4812	3.2	3.2
55	03	SURG	MISCELLANEOUS EAR, NOSE, MOUTH & THROAT PROCEDURES.	.9049	1.9	2.9
56	03	SURG	RHINOPLASTY	.9487	2.1	3.1
57	03	SURG	T & A PROC, EXCEPT TONSILLECTOMY & /OR ADENOIDECTOMY ONLY, AGE >17.	1.0775	2.6	4.0
58	03	SURG	*T & A PROC, EXCEPT TONSILLECTOMY & /OR ADENOIDECTOMY ONLY, AGE 0–17.	.2733	1.5	1.5
59	03	SURG	TONSILLECTOMY & /OR ADENOIDECTOMY ONLY, AGE >17	.6824	1.8	2.4
60	03	SURG	*TONSILLECTOMY & /OR ADENOIDECTOMY ONLY, AGE 0–17 ...	.2081	1.5	1.5
61	03	SURG	MYRINGOTOMY W TUBE INSERTION AGE >17	1.2708	2.8	4.9
62	03	SURG	*MYRINGOTOMY W TUBE INSERTION AGE 0–17	.2946	1.3	1.3
63	03	SURG	OTHER EAR, NOSE, MOUTH & THROAT O.R. PROCEDURES	1.3393	3.0	4.3
64	03	MED	EAR, NOSE, MOUTH & THROAT MALIGNANCY	1.2285	4.2	6.5
65	03	MED	DYSEQUILIBRIUM	.5383	2.3	2.9
66	03	MED	EPISTAXIS	.5580	2.5	3.2
67	03	MED	EPIGLOTTITIS	.8088	2.8	3.5
68	03	MED	OTITIS MEDIA & URI AGE >17 W CC	.6744	3.4	4.2
69	03	MED	OTITIS MEDIA & URI AGE >17 W/O CC	.5114	2.7	3.3
70	03	MED	OTITIS MEDIA & URI AGE 0–17	.4666	2.4	2.9
71	03	MED	LARYNGOTRACHEITIS	.7730	3.0	3.9
72	03	MED	NASAL TRAUMA & DEFORMITY	.6409	2.6	3.3
73	03	MED	OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE >17 ...	.7763	3.3	4.3
74	03	MED	*OTHER EAR, NOSE, MOUTH & THROAT DIAGNOSES AGE 0–17	.3348	2.1	2.1
75	04	SURG	MAJOR CHEST PROCEDURES	3.1338	7.8	10.0
76	04	SURG	OTHER RESP SYSTEM O.R. PROCEDURES W CC	2.7905	8.4	11.3
77	04	SURG	OTHER RESP SYSTEM O.R. PROCEDURES W/O CC	1.1793	3.4	4.9
78	04	MED	PULMONARY EMBOLISM	1.3703	6.0	7.0
79	04	MED	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W CC	1.6471	6.6	8.5
80	04	MED	RESPIRATORY INFECTIONS & INFLAMMATIONS AGE >17 W/O CC.	.9168	4.6	5.7
81	04	MED	*RESPIRATORY INFECTIONS & INFLAMMATIONS AGE 0–17	1.5162	6.1	6.1
82	04	MED	RESPIRATORY NEOPLASMS	1.3810	5.2	7.0
83	04	MED	MAJOR CHEST TRAUMA W CC	.9752	4.4	5.6
84	04	MED	MAJOR CHEST TRAUMA W/O CC	.5492	2.8	3.4
85	04	MED	PLEURAL EFFUSION W CC	1.2201	4.9	6.4
86	04	MED	PLEURAL EFFUSION W/O CC	.6990	2.9	3.8
87	04	MED	PULMONARY EDEMA & RESPIRATORY FAILURE	1.3746	4.8	6.3
88	04	MED	CHRONIC OBSTRUCTIVE PULMONARY DISEASE	.9314	4.2	5.2
89	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE >17 W CC	1.0638	5.0	6.0
90	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE >17 W/O CC	.6540	3.6	4.2
91	04	MED	SIMPLE PNEUMONIA & PLEURISY AGE 0–17	.6702	2.8	3.3
92	04	MED	INTERSTITIAL LUNG DISEASE W CC	1.1852	5.0	6.3
93	04	MED	INTERSTITIAL LUNG DISEASE W/O CC	.7211	3.3	4.0
94	04	MED	PNEUMOTHORAX W CC	1.1694	4.8	6.3
95	04	MED	PNEUMOTHORAX W/O CC	.6072	3.0	3.7
96	04	MED	BRONCHITIS & ASTHMA AGE >17 W CC	.7873	3.9	4.7
97	04	MED	BRONCHITIS & ASTHMA AGE >17 W/O CC	.5871	3.1	3.7
98	04	MED	BRONCHITIS & ASTHMA AGE 0–17	.9098	3.0	4.7
99	04	MED	RESPIRATORY SIGNS & SYMPTOMS W CC	.7104	2.5	3.2
100 ...	04	MED	RESPIRATORY SIGNS & SYMPTOMS W/O CC	.5415	1.8	2.2
101 ...	04	MED	OTHER RESPIRATORY SYSTEM DIAGNOSES W CC	.8535	3.3	4.4
102 ...	04	MED	OTHER RESPIRATORY SYSTEM DIAGNOSES W/O CC	.5522	2.1	2.7
103 ...	PRE	SURG	HEART TRANSPLANT	17.3527	28.8	48.6
104 ...	05	SURG	CARDIAC VALVE & OTHER MAJOR CARDIOTHORACIC PROC W CARDIAC CATH.	7.2014	8.9	11.7
105 ...	05	SURG	CARDIAC VALVE & OTHER MAJOR CARDIOTHORACIC PROC W/O CARDIAC CATH.	5.6515	7.4	9.3
106 ...	05	SURG	CORONARY BYPASS W PTCA	7.5379	9.4	11.2
107 ...	05	SURG	CORONARY BYPASS W CARDIAC CATH	5.3870	9.2	10.4
108 ...	05	SURG	OTHER CARDIOTHORACIC PROCEDURES	5.6650	8.0	10.6
109 ...	05	SURG	CORONARY BYPASS W/O PTCA OR CARDIAC CATH	4.0244	6.8	7.7
110 ...	05	SURG	MAJOR CARDIOVASCULAR PROCEDURES W CC	4.1440	7.1	9.5
111 ...	05	SURG	MAJOR CARDIOVASCULAR PROCEDURES W/O CC	2.2427	4.7	5.5
112 ...	05	SURG	PERCUTANEOUS CARDIOVASCULAR PROCEDURES	1.8729	2.6	3.8
113 ...	05	SURG	AMPUTATION FOR CIRC SYSTEM DISORDERS EXCEPT UPPER LIMB & TOE.	2.7595	9.7	12.7
114 ...	05	SURG	UPPER LIMB & TOE AMPUTATION FOR CIRC SYSTEM DISORDERS.	1.5650	6.0	8.3

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
115 ...	05	SURG	PRM CARD PACEM IMPL W AMI,HRT FAIL OR SHK,OR AICD LEAD OR GNRTR PR.	3.4763	6.0	8.4
116 ...	05	SURG	OTH PERM CARD PACEMAK IMPL OR PTCA W CORONARY ARTERY STENT IMPLNT.	2.4225	2.6	3.7
117 ...	05	SURG	CARDIAC PACEMAKER REVISION EXCEPT DEVICE REPLACEMENT.	1.2983	2.6	4.1
118 ...	05	SURG	CARDIAC PACEMAKER DEVICE REPLACEMENT	1.4952	1.9	2.8
119 ...	05	SURG	VEIN LIGATION & STRIPPING	1.2627	2.9	4.8
120 ...	05	SURG	OTHER CIRCULATORY SYSTEM O.R. PROCEDURES	2.0394	4.9	8.1
121 ...	05	MED	CIRCULATORY DISORDERS W AMI & MAJOR COMP, DISCHARGED ALIVE.	1.6191	5.5	6.7
122 ...	05	MED	CIRCULATORY DISORDERS W AMI W/O MAJOR COMP, DISCHARGED ALIVE.	1.0872	3.3	4.0
123 ...	05	MED	CIRCULATORY DISORDERS W AMI, EXPIRED	1.5531	2.8	4.6
124 ...	05	MED	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH & COMPLEX DIAG.	1.4152	3.3	4.4
125 ...	05	MED	CIRCULATORY DISORDERS EXCEPT AMI, W CARD CATH W/O COMPLEX DIAG.	1.0624	2.2	2.8
126 ...	05	MED	ACUTE & SUBACUTE ENDOCARDITIS	2.5352	9.2	12.0
127 ...	05	MED	HEART FAILURE & SHOCK	1.0135	4.2	5.4
128 ...	05	MED	DEEP VEIN THROMBOPHLEBITIS	.7644	5.0	5.8
129 ...	05	MED	CARDIAC ARREST, UNEXPLAINED	1.0936	1.8	2.8
130 ...	05	MED	PERIPHERAL VASCULAR DISORDERS W CC	.9474	4.7	5.9
131 ...	05	MED	PERIPHERAL VASCULAR DISORDERS W/O CC	.5891	3.6	4.4
132 ...	05	MED	ATHEROSCLEROSIS W CC	.6703	2.4	3.1
133 ...	05	MED	ATHEROSCLEROSIS W/O CC	.5656	1.9	2.4
134 ...	05	MED	HYPERTENSION	.5921	2.6	3.3
135 ...	05	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W CC.	.9085	3.3	4.5
136 ...	05	MED	CARDIAC CONGENITAL & VALVULAR DISORDERS AGE >17 W/O CC.	.6074	2.3	2.9
137 ...	05	MED	*CARDIAC CONGENITAL & VALVULAR DISORDERS AGE 0–17	.8170	3.3	3.3
138 ...	05	MED	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W CC	.8288	3.1	4.0
139 ...	05	MED	CARDIAC ARRHYTHMIA & CONDUCTION DISORDERS W/O CC	.5139	2.0	2.5
140 ...	05	MED	ANGINA PECTORIS	.5737	2.2	2.7
141 ...	05	MED	SYNCOPE & COLLAPSE W CC	.7225	2.9	3.7
142 ...	05	MED	SYNCOPE & COLLAPSE W/O CC	.5556	2.2	2.7
143 ...	05	MED	CHEST PAIN	.5403	1.8	2.2
144 ...	05	MED	OTHER CIRCULATORY SYSTEM DIAGNOSES W CC	1.1676	3.8	5.4
145 ...	05	MED	OTHER CIRCULATORY SYSTEM DIAGNOSES W/O CC	.6308	2.2	2.8
146 ...	06	SURG	RECTAL RESECTION W CC	2.7439	8.9	10.2
147 ...	06	SURG	RECTAL RESECTION W/O CC	1.6272	6.0	6.6
148 ...	06	SURG	MAJOR SMALL & LARGE BOWEL PROCEDURES W CC	3.4317	10.1	12.1
149 ...	06	SURG	MAJOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.5645	6.1	6.6
150 ...	06	SURG	PERITONEAL ADHESIOLYSIS W CC	2.8508	9.1	11.2
151 ...	06	SURG	PERITONEAL ADHESIOLYSIS W/O CC	1.3404	4.8	5.9
152 ...	06	SURG	MINOR SMALL & LARGE BOWEL PROCEDURES W CC	1.9422	6.8	8.2
153 ...	06	SURG	MINOR SMALL & LARGE BOWEL PROCEDURES W/O CC	1.2045	4.9	5.5
154 ...	06	SURG	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W CC.	4.1504	10.1	13.3
155 ...	06	SURG	STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE >17 W/O CC.	1.3691	3.3	4.3
156 ...	06	SURG	*STOMACH, ESOPHAGEAL & DUODENAL PROCEDURES AGE 0–17.	.8413	6.0	6.0
157 ...	06	SURG	ANAL & STOMAL PROCEDURES W CC	1.2381	3.9	5.5
158 ...	06	SURG	ANAL & STOMAL PROCEDURES W/O CC	.6630	2.1	2.6
159 ...	06	SURG	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W CC.	1.3341	3.8	5.0
160 ...	06	SURG	HERNIA PROCEDURES EXCEPT INGUINAL & FEMORAL AGE >17 W/O CC.	.7828	2.2	2.7
161 ...	06	SURG	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W CC	1.1022	2.9	4.2
162 ...	06	SURG	INGUINAL & FEMORAL HERNIA PROCEDURES AGE >17 W/O CC	.6236	1.6	2.0
163 ...	06	SURG	*HERNIA PROCEDURES AGE 0–17	.8701	2.1	2.1
164 ...	06	SURG	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W CC	2.3776	7.1	8.4
165 ...	06	SURG	APPENDECTOMY W COMPLICATED PRINCIPAL DIAG W/O CC	1.2823	4.3	4.9
166 ...	06	SURG	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W CC	1.4813	4.0	5.1
167 ...	06	SURG	APPENDECTOMY W/O COMPLICATED PRINCIPAL DIAG W/O CC	.8936	2.3	2.7
168 ...	03	SURG	MOUTH PROCEDURES W CC	1.2069	3.2	4.6
169 ...	03	SURG	MOUTH PROCEDURES W/O CC	.7475	1.9	2.4
170 ...	06	SURG	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W CC	2.8739	7.7	11.2

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
171 ...	06	SURG	OTHER DIGESTIVE SYSTEM O.R. PROCEDURES W/O CC	1.1951	3.6	4.8
172 ...	06	MED	DIGESTIVE MALIGNANCY W CC	1.3502	5.1	7.0
173 ...	06	MED	DIGESTIVE MALIGNANCY W/O CC	.7641	2.8	3.9
174 ...	06	MED	G.I. HEMORRHAGE W CC	.9981	3.9	4.8
175 ...	06	MED	G.I. HEMORRHAGE W/O CC	.5495	2.5	2.9
176 ...	06	MED	COMPLICATED PEPTIC ULCER	1.1057	4.1	5.3
177 ...	06	MED	UNCOMPLICATED PEPTIC ULCER W CC	.8997	3.7	4.6
178 ...	06	MED	UNCOMPLICATED PEPTIC ULCER W/O CC	.6593	2.6	3.1
179 ...	06	MED	INFLAMMATORY BOWEL DISEASE	1.0583	4.7	6.0
180 ...	06	MED	G.I. OBSTRUCTION W CC	.9426	4.2	5.4
181 ...	06	MED	G.I. OBSTRUCTION W/O CC	.5309	2.8	3.4
182 ...	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W CC.	.7922	3.4	4.4
183 ...	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE >17 W/O CC.	.5713	2.4	3.0
184 ...	06	MED	ESOPHAGITIS, GASTROENT & MISC DIGEST DISORDERS AGE 0–17.	.5137	2.5	3.3
185 ...	03	MED	DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE >17.	.8624	3.3	4.5
186 ...	03	MED	*DENTAL & ORAL DIS EXCEPT EXTRACTIONS & RESTORATIONS, AGE 0–17.	.3207	2.9	2.9
187 ...	03	MED	DENTAL EXTRACTIONS & RESTORATIONS	.7687	2.9	3.8
188 ...	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W CC	1.1005	4.1	5.6
189 ...	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE >17 W/O CC	.5799	2.4	3.1
190 ...	06	MED	OTHER DIGESTIVE SYSTEM DIAGNOSES AGE 0–17	.9912	4.1	6.0
191 ...	07	SURG	PANCREAS, LIVER & SHUNT PROCEDURES W CC	4.3818	10.5	14.1
192 ...	07	SURG	PANCREAS, LIVER & SHUNT PROCEDURES W/O CC	1.7866	5.3	6.6
193 ...	07	SURG	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W CC.	3.3954	10.3	12.6
194 ...	07	SURG	BILIARY TRACT PROC EXCEPT ONLY CHOLECYST W OR W/O C.D.E. W/O CC.	1.6141	5.6	6.8
195 ...	07	SURG	CHOLECYSTECTOMY W C.D.E. W CC	2.9025	8.3	9.9
196 ...	07	SURG	CHOLECYSTECTOMY W C.D.E. W/O CC	1.6543	4.9	5.7
197 ...	07	SURG	CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W CC.	2.4551	7.2	8.7
198 ...	07	SURG	CHOLECYSTECTOMY EXCEPT BY LAPAROSCOPE W/O C.D.E. W/O CC.	1.2323	3.9	4.5
199 ...	07	SURG	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR MALIGNANCY	2.3610	7.2	9.7
200 ...	07	SURG	HEPATOBILIARY DIAGNOSTIC PROCEDURE FOR NON-MALIGNANCY.	3.1765	7.0	10.8
201 ...	07	SURG	OTHER HEPATOBILIARY OR PANCREAS O.R. PROCEDURES	3.4002	10.2	13.9
202 ...	07	MED	CIRRHOSIS & ALCOHOLIC HEPATITIS	1.3035	4.9	6.5
203 ...	07	MED	MALIGNANCY OF HEPATOBILIARY SYSTEM OR PANCREAS	1.3284	5.0	6.7
204 ...	07	MED	DISORDERS OF PANCREAS EXCEPT MALIGNANCY	1.2030	4.5	5.9
205 ...	07	MED	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W CC ...	1.2072	4.7	6.3
206 ...	07	MED	DISORDERS OF LIVER EXCEPT MALIG,CIRR,ALC HEPA W/O CC	.6759	3.0	3.9
207 ...	07	MED	DISORDERS OF THE BILIARY TRACT W CC	1.1037	4.0	5.2
208 ...	07	MED	DISORDERS OF THE BILIARY TRACT W/O CC	.6532	2.3	2.9
209 ...	08	SURG	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF LOWER EXTREMITY.	2.0902	4.6	5.2
210 ...	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W CC.	1.8074	6.0	6.9
211 ...	08	SURG	HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE >17 W/O CC.	1.2663	4.6	5.0
212 ...	08	SURG	*HIP & FEMUR PROCEDURES EXCEPT MAJOR JOINT AGE 0–17	.8449	11.1	11.1
213 ...	08	SURG	AMPUTATION FOR MUSCULOSKELETAL SYSTEM & CONN TISSUE DISORDERS.	1.7751	6.4	8.7
214 ...	08	SURG	NO LONGER VALID	.0000	.0	.0
215 ...	08	SURG	NO LONGER VALID	.0000	.0	.0
216 ...	08	SURG	BIOPSIES OF MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE.	2.1983	7.1	9.8
217 ...	08	SURG	WND DEBRID & SKN GRFT EXCEPT HAND, FOR MUSCSKELET & CONN TISS DIS.	2.9142	8.9	13.1
218 ...	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE >17 W CC.	1.5309	4.2	5.4
219 ...	08	SURG	LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE >17 W/O CC.	1.0219	2.7	3.2
220 ...	08	SURG	*LOWER EXTREM & HUMER PROC EXCEPT HIP, FOOT, FEMUR AGE 0–17.	.5828	5.3	5.3
221 ...	08	SURG	NO LONGER VALID	.0000	.0	.0

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
222 ...	08	SURG	NO LONGER VALID	.0000	.0	.0
223 ...	08	SURG	MAJOR SHOULDER/ELBOW PROC, OR OTHER UPPER EXTREMITY PROC W CC.	.9560	2.0	2.6
224 ...	08	SURG	SHOULDER,ELBOW OR FOREARM PROC,EXC MAJOR JOINT PROC, W/O CC.	.7986	1.7	2.0
225 ...	08	SURG	FOOT PROCEDURES	1.0864	3.3	4.7
226 ...	08	SURG	SOFT TISSUE PROCEDURES W CC	1.4749	4.3	6.3
227 ...	08	SURG	SOFT TISSUE PROCEDURES W/O CC	.8025	2.1	2.7
228 ...	08	SURG	MAJOR THUMB OR JOINT PROC,OR OTH HAND OR WRIST PROC W CC.	1.0648	2.4	3.6
229 ...	08	SURG	HAND OR WRIST PROC, EXCEPT MAJOR JOINT PROC, W/O CC	.7157	1.8	2.4
230 ...	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES OF HIP & FEMUR.	1.2592	3.4	5.1
231 ...	08	SURG	LOCAL EXCISION & REMOVAL OF INT FIX DEVICES EXCEPT HIP & FEMUR.	1.3813	3.2	4.8
232 ...	08	SURG	ARTHROSCOPY	1.0833	2.3	3.6
233 ...	08	SURG	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W CC	2.0825	5.3	7.7
234 ...	08	SURG	OTHER MUSCULOSKELET SYS & CONN TISS O.R. PROC W/O CC.	1.2661	2.7	3.6
235 ...	08	MED	FRACTURES OF FEMUR	.7584	3.8	5.2
236 ...	08	MED	FRACTURES OF HIP & PELVIS	.7218	4.0	5.0
237 ...	08	MED	SPRAINS, STRAINS, & DISLOCATIONS OF HIP, PELVIS & THIGH	.5668	3.0	3.7
238 ...	08	MED	OSTEOMYELITIS	1.3520	6.4	8.6
239 ...	08	MED	PATHOLOGICAL FRACTURES & MUSCULOSKELETAL & CONN TISS MALIGNANCY.	.9749	4.9	6.2
240 ...	08	MED	CONNECTIVE TISSUE DISORDERS W CC	1.2671	4.9	6.6
241 ...	08	MED	CONNECTIVE TISSUE DISORDERS W/O CC	.6166	3.1	3.9
242 ...	08	MED	SEPTIC ARTHRITIS	1.0690	5.1	6.6
243 ...	08	MED	MEDICAL BACK PROBLEMS	.7261	3.7	4.7
244 ...	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES W CC	.7170	3.7	4.8
245 ...	08	MED	BONE DISEASES & SPECIFIC ARTHROPATHIES W/O CC	.4842	2.8	3.6
246 ...	08	MED	NON-SPECIFIC ARTHROPATHIES	.5572	3.0	3.6
247 ...	08	MED	SIGNS & SYMPTOMS OF MUSCULOSKELETAL SYSTEM & CONN TISSUE.	.5698	2.6	3.4
248 ...	08	MED	TENDONITIS, MYOSITIS & BURSITIS	.7854	3.7	4.7
249 ...	08	MED	AFTERCARE, MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE.	.6919	2.6	3.8
250 ...	08	MED	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W CC.	.6912	3.3	4.3
251 ...	08	MED	FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE >17 W/O CC.	.4993	2.4	3.0
252 ...	08	MED	*FX, SPRN, STRN & DISL OF FOREARM, HAND, FOOT AGE 0–17	.2531	1.8	1.8
253 ...	08	MED	FX, SPRN, STRN & DISL OF UPARM, LOWLEG EX FOOT AGE >17 W CC.	.7239	3.7	4.7
254 ...	08	MED	FX, SPRN, STRN & DISL OF UPARM, LOWLEG EX FOOT AGE >17 W/O CC.	.4403	2.6	3.2
255 ...	08	MED	*FX, SPRN, STRN & DISL OF UPARM, LOWLEG EX FOOT AGE 0–17.	.2947	2.9	2.9
256 ...	08	MED	OTHER MUSCULOSKELETAL SYSTEM & CONNECTIVE TISSUE DIAGNOSES.	.7950	3.8	5.1
257 ...	09	SURG	TOTAL MASTECTOMY FOR MALIGNANCY W CC	.9100	2.3	2.8
258 ...	09	SURG	TOTAL MASTECTOMY FOR MALIGNANCY W/O CC	.7223	1.8	2.0
259 ...	09	SURG	SUBTOTAL MASTECTOMY FOR MALIGNANCY W CC	.9083	1.8	2.8
260 ...	09	SURG	SUBTOTAL MASTECTOMY FOR MALIGNANCY W/O CC	.6521	1.3	1.4
261 ...	09	SURG	BREAST PROC FOR NON-MALIGNANCY EXCEPT BIOPSY & LOCAL EXCISION.	.9307	1.7	2.2
262 ...	09	SURG	BREAST BIOPSY & LOCAL EXCISION FOR NON-MALIGNANCY	.8768	2.7	3.8
263 ...	09	SURG	SKIN GRAFT & /OR DEBRID FOR SKN ULCER OR CELLULITIS W CC.	2.1112	8.9	12.1
264 ...	09	SURG	SKIN GRAFT & /OR DEBRID FOR SKN ULCER OR CELLULITIS W/O CC.	1.1515	5.4	7.2
265 ...	09	SURG	SKIN GRAFT & /OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W CC.	1.5284	4.2	6.6
266 ...	09	SURG	SKIN GRAFT & /OR DEBRID EXCEPT FOR SKIN ULCER OR CELLULITIS W/O CC.	.8726	2.4	3.3
267 ...	09	SURG	PERIANAL & PILONIDAL PROCEDURES	1.0827	3.1	5.2
268 ...	09	SURG	SKIN, SUBCUTANEOUS TISSUE & BREAST PLASTIC PROCEDURES.	1.1382	2.4	3.7
269 ...	09	SURG	OTHER SKIN, SUBCUT TISS & BREAST PROC W CC	1.7023	5.8	8.3
270 ...	09	SURG	OTHER SKIN, SUBCUT TISS & BREAST PROC W/O CC	.7657	2.3	3.3

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
271 ...	09	MED	SKIN ULCERS	1.0093	5.5	7.1
272 ...	09	MED	MAJOR SKIN DISORDERS W CC	1.0005	4.8	6.4
273 ...	09	MED	MAJOR SKIN DISORDERS W/O CC	.6162	3.2	4.2
274 ...	09	MED	MALIGNANT BREAST DISORDERS W CC	1.2100	4.9	7.0
275 ...	09	MED	MALIGNANT BREAST DISORDERS W/O CC	.5316	2.4	3.3
276 ...	09	MED	NON-MALIGANT BREAST DISORDERS	.6919	3.6	4.7
277 ...	09	MED	CELLULITIS AGE >17 W CC	.8398	4.7	5.7
278 ...	09	MED	CELLULITIS AGE >17 W/O CC	.5526	3.6	4.3
279 ...	09	MED	*CELLULITIS AGE 0–17	.6626	4.2	4.2
280 ...	09	MED	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W CC	.6769	3.2	4.2
281 ...	09	MED	TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE >17 W/O CC.	.4720	2.4	3.1
282 ...	09	MED	*TRAUMA TO THE SKIN, SUBCUT TISS & BREAST AGE 0–17	.2563	2.2	2.2
283 ...	09	MED	MINOR SKIN DISORDERS W CC	.6924	3.5	4.6
284 ...	09	MED	MINOR SKIN DISORDERS W/O CC	.4348	2.5	3.2
285 ...	10	SURG	AMPUTAT OF LOWER LIMB FOR ENDOCRINE, NUTRIT, & METABOL DISORDERS.	1.9923	7.7	10.4
286 ...	10	SURG	ADRENAL & PITUITARY PROCEDURES	2.1300	4.9	6.2
287 ...	10	SURG	SKIN GRAFTS & WOUND DEBRID FOR ENDOC, NUTRIT & METAB DISORDERS.	1.8336	7.8	10.5
288 ...	10	SURG	O.R. PROCEDURES FOR OBESITY	2.1764	4.6	5.7
289 ...	10	SURG	PARATHYROID PROCEDURES	.9892	2.0	3.1
290 ...	10	SURG	THYROID PROCEDURES	.9207	1.8	2.4
291 ...	10	SURG	THYROGLOSSAL PROCEDURES	.5503	1.4	1.6
292 ...	10	SURG	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W CC	2.4548	6.9	10.0
293 ...	10	SURG	OTHER ENDOCRINE, NUTRIT & METAB O.R. PROC W/O CC	1.2190	3.5	4.9
294 ...	10	MED	DIABETES AGE >35	.7596	3.6	4.7
295 ...	10	MED	DIABETES AGE 0–35	.7555	2.9	3.9
296 ...	10	MED	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W CC	.8594	4.0	5.2
297 ...	10	MED	NUTRITIONAL & MISC METABOLIC DISORDERS AGE >17 W/O CC.	.5170	2.8	3.5
298 ...	10	MED	NUTRITIONAL & MISC METABOLIC DISORDERS AGE 0–17	.5309	2.5	3.2
299 ...	10	MED	INBORN ERRORS OF METABOLISM	.9442	4.0	5.6
300 ...	10	MED	ENDOCRINE DISORDERS W CC	1.0836	4.7	6.1
301 ...	10	MED	ENDOCRINE DISORDERS W/O CC	.6108	2.9	3.7
302 ...	11	SURG	KIDNEY TRANSPLANT	3.4495	7.9	9.4
303 ...	11	SURG	KIDNEY, URETER & MAJOR BLADDER PROCEDURES FOR NEOPLASM.	2.4639	7.0	8.5
304 ...	11	SURG	KIDNEY, URETER & MAJOR BLADDER PROC FOR NON-NEOPL W CC.	2.3371	6.4	8.9
305 ...	11	SURG	KIDNEY, URETER & MAJOR BLADDER PROC FOR NON-NEOPL W/O CC.	1.1844	3.1	3.8
306 ...	11	SURG	PROSTATECTOMY W CC	1.2483	3.7	5.5
307 ...	11	SURG	PROSTATECTOMY W/O CC	.6424	1.9	2.3
308 ...	11	SURG	MINOR BLADDER PROCEDURES W CC	1.6345	4.2	6.4
309 ...	11	SURG	MINOR BLADDER PROCEDURES W/O CC	.9332	2.0	2.5
310 ...	11	SURG	TRANSURETHRAL PROCEDURES W CC	1.1174	3.0	4.4
311 ...	11	SURG	TRANSURETHRAL PROCEDURES W/O CC	.6165	1.6	1.9
312 ...	11	SURG	URETHRAL PROCEDURES, AGE >17 W CC	1.0197	3.0	4.5
313 ...	11	SURG	URETHRAL PROCEDURES, AGE >17 W/O CC	.6464	1.7	2.1
314 ...	11	SURG	*URETHRAL PROCEDURES, AGE 0–17	.4939	2.3	2.3
315 ...	11	SURG	OTHER KIDNEY & URINARY TRACT O.R. PROCEDURES	2.0511	4.2	7.5
316 ...	11	MED	RENAL FAILURE	1.3444	4.9	6.7
317 ...	11	MED	ADMIT FOR RENAL DIALYSIS	.7439	2.1	3.2
318 ...	11	MED	KIDNEY & URINARY TRACT NEOPLASMS W CC	1.1316	4.3	6.0
319 ...	11	MED	KIDNEY & URINARY TRACT NEOPLASMS W/O CC	.6045	2.1	2.9
320 ...	11	MED	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W CC	.8625	4.3	5.4
321 ...	11	MED	KIDNEY & URINARY TRACT INFECTIONS AGE >17 W/O CC	.5686	3.2	3.8
322 ...	11	MED	KIDNEY & URINARY TRACT INFECTIONS AGE 0–17	.4946	3.3	4.1
323 ...	11	MED	URINARY STONES W CC, & /OR ESW LITHOTRIPSY	.7992	2.4	3.2
324 ...	11	MED	URINARY STONES W/O CC	.4502	1.6	1.9
325 ...	11	MED	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W CC.	.6468	3.0	3.9
326 ...	11	MED	KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE >17 W/O CC.	.4302	2.1	2.7
327 ...	11	MED	*KIDNEY & URINARY TRACT SIGNS & SYMPTOMS AGE 0–17	.3533	3.1	3.1
328 ...	11	MED	URETHRAL STRICTURE AGE >17 W CC	.7487	2.8	3.9
329 ...	11	MED	URETHRAL STRICTURE AGE >17 W/O CC	.5283	1.7	2.0
330 ...	11	MED	*URETHRAL STRICTURE AGE 0–17	.3182	1.6	1.6
331 ...	11	MED	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W CC	1.0226	4.1	5.6

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
332 ...	11	MED	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE >17 W/O CC.	.5994	2.5	3.3
333 ...	11	MED	OTHER KIDNEY & URINARY TRACT DIAGNOSES AGE 0–17	.8248	3.5	5.1
334 ...	12	SURG	MAJOR MALE PELVIC PROCEDURES W CC	1.5582	4.2	4.9
335 ...	12	SURG	MAJOR MALE PELVIC PROCEDURES W/O CC	1.1706	3.2	3.4
336 ...	12	SURG	TRANSURETHRAL PROSTATECTOMY W CC	.8873	2.7	3.5
337 ...	12	SURG	TRANSURETHRAL PROSTATECTOMY W/O CC	.6147	1.9	2.2
338 ...	12	SURG	TESTES PROCEDURES, FOR MALIGNANCY	1.1903	3.5	5.3
339 ...	12	SURG	TESTES PROCEDURES, NON-MALIGNANCY AGE >17	1.0710	3.0	4.5
340 ...	12	SURG	*TESTES PROCEDURES, NON-MALIGNANCY AGE 0–17	.2828	2.4	2.4
341 ...	12	SURG	PENIS PROCEDURES	1.1668	2.1	3.2
342 ...	12	SURG	CIRCUMCISION AGE >17	.8214	2.5	3.1
343 ...	12	SURG	*CIRCUMCISION AGE 0–17	.1537	1.7	1.7
344 ...	12	SURG	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROCEDURES FOR MALIGNANCY.	1.1489	1.6	2.3
345 ...	12	SURG	OTHER MALE REPRODUCTIVE SYSTEM O.R. PROC EXCEPT FOR MALIGNANCY.	.8813	2.6	3.8
346 ...	12	MED	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W CC	.9783	4.3	5.8
347 ...	12	MED	MALIGNANCY, MALE REPRODUCTIVE SYSTEM, W/O CC	.5905	2.4	3.4
348 ...	12	MED	BENIGN PROSTATIC HYPERTROPHY W CC	.7170	3.2	4.2
349 ...	12	MED	BENIGN PROSTATIC HYPERTROPHY W/O CC	.4420	2.0	2.6
350 ...	12	MED	INFLAMMATION OF THE MALE REPRODUCTIVE SYSTEM	.6987	3.6	4.4
351 ...	12	MED	*STERILIZATION, MALE	.2358	1.3	1.3
352 ...	12	MED	OTHER MALE REPRODUCTIVE SYSTEM DIAGNOSES	.6875	2.8	3.9
353 ...	13	SURG	PELVIC EVISCERATION, RADICAL HYSTERECTOMY & RADICAL VULVECTOMY.	1.9232	5.3	6.7
354 ...	13	SURG	UTERINE, ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W CC.	1.5267	4.9	5.9
355 ...	13	SURG	UTERINE, ADNEXA PROC FOR NON-OVARIAN/ADNEXAL MALIG W/O CC.	.9265	3.1	3.3
356 ...	13	SURG	FEMALE REPRODUCTIVE SYSTEM RECONSTRUCTIVE PROCEDURES.	.7838	2.1	2.4
357 ...	13	SURG	UTERINE & ADNEXA PROC FOR OVARIAN OR ADNEXAL MALIGNANCY.	2.3601	6.9	8.5
358 ...	13	SURG	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W CC	1.2247	3.7	4.4
359 ...	13	SURG	UTERINE & ADNEXA PROC FOR NON-MALIGNANCY W/O CC	.8582	2.6	2.8
360 ...	13	SURG	VAGINA, CERVIX & VULVA PROCEDURES	.8859	2.4	3.0
361 ...	13	SURG	LAPAROSCOPY & INCISIONAL TUBAL INTERRUPTION	1.2248	2.2	3.5
362 ...	13	SURG	*ENDOSCOPIC TUBAL INTERRUPTION	.3013	1.4	1.4
363 ...	13	SURG	D & C, CONIZATION & RADIO-IMPLANT, FOR MALIGNANCY	.8178	2.6	3.5
364 ...	13	SURG	D & C, CONIZATION EXCEPT FOR MALIGNANCY	.7559	2.6	3.6
365 ...	13	SURG	OTHER FEMALE REPRODUCTIVE SYSTEM O.R. PROCEDURES	1.8502	5.0	7.3
366 ...	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W CC	1.2498	4.8	6.8
367 ...	13	MED	MALIGNANCY, FEMALE REPRODUCTIVE SYSTEM W/O CC	.5675	2.4	3.2
368 ...	13	MED	INFECTIONS, FEMALE REPRODUCTIVE SYSTEM	1.1249	5.0	6.7
369 ...	13	MED	MENSTRUAL & OTHER FEMALE REPRODUCTIVE SYSTEM DISORDERS.	.5721	2.4	3.2
370 ...	14	SURG	CESAREAN SECTION W CC	1.0631	4.4	5.7
371 ...	14	SURG	CESAREAN SECTION W/O CC	.7157	3.3	3.7
372 ...	14	MED	VAGINAL DELIVERY W COMPLICATING DIAGNOSES	.6069	2.7	3.5
373 ...	14	MED	VAGINAL DELIVERY W/O COMPLICATING DIAGNOSES	.4172	2.0	2.3
374 ...	14	SURG	VAGINAL DELIVERY W STERILIZATION & /OR D & C	.7698	2.7	3.5
375 ...	14	SURG	*VAGINAL DELIVERY W O.R. PROC EXCEPT STERIL & /OR D & C.	.6841	4.4	4.4
376 ...	14	MED	POSTPARTUM & POST ABORTION DIAGNOSES W/O O.R. PROCEDURE.	.5314	2.6	3.5
377 ...	14	SURG	POSTPARTUM & POST ABORTION DIAGNOSES W O.R. PROCEDURE.	.8870	2.6	3.9
378 ...	14	MED	ECTOPIC PREGNANCY	.7543	2.1	2.3
379 ...	14	MED	THREATENED ABORTION	.3981	2.0	3.1
380 ...	14	MED	ABORTION W/O D & C	.4867	1.8	2.2
381 ...	14	SURG	ABORTION W D & C, ASPIRATION CURETTAGE OR HYSTEROTOMY.	.5323	1.5	2.0
382 ...	14	MED	FALSE LABOR	.1845	1.2	1.3
383 ...	14	MED	OTHER ANTEPARTUM DIAGNOSES W MEDICAL COMPLICATIONS.	.5082	2.7	3.9
384 ...	14	MED	OTHER ANTEPARTUM DIAGNOSES W/O MEDICAL COMPLICATIONS.	.3232	1.7	2.3
385 ...	15	MED	*NEONATES, DIED OR TRANSFERRED TO ANOTHER ACUTE CARE FACILITY.	1.3729	1.8	1.8

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
386	15	MED	*EXTREME IMMATURITY OR RESPIRATORY DISTRESS SYNDROME, NEONATE.	4.5275	17.9	17.9
387	15	MED	*PREMATURITY W MAJOR PROBLEMS	3.0922	13.3	13.3
388	15	MED	*PREMATURITY W/O MAJOR PROBLEMS	1.8657	8.6	8.6
389	15	MED	*FULL TERM NEONATE W MAJOR PROBLEMS	1.8357	4.7	4.7
390	15	MED	NEONATE W OTHER SIGNIFICANT PROBLEMS	.8865	2.9	3.7
391	15	MED	*NORMAL NEWBORN	.1523	3.1	3.1
392	16	SURG	SPLENECTOMY AGE >17	3.1818	7.1	9.5
393	16	SURG	*SPLENECTOMY AGE 0–17	1.3449	9.1	9.1
394	16	SURG	OTHER O.R. PROCEDURES OF THE BLOOD AND BLOOD FORMING ORGANS.	1.5946	4.1	6.7
395	16	MED	RED BLOOD CELL DISORDERS AGE >17	.8262	3.3	4.5
396	16	MED	RED BLOOD CELL DISORDERS AGE 0–17	1.2128	2.4	3.7
397	16	MED	COAGULATION DISORDERS	1.2290	3.8	5.2
398	16	MED	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W CC	1.2765	4.7	6.0
399	16	MED	RETICULOENDOTHELIAL & IMMUNITY DISORDERS W/O CC	.6899	2.8	3.6
400	17	SURG	LYMPHOMA & LEUKEMIA W MAJOR O.R. PROCEDURE	2.6272	5.8	9.1
401	17	SURG	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W CC.	2.7311	7.8	11.2
402	17	SURG	LYMPHOMA & NON-ACUTE LEUKEMIA W OTHER O.R. PROC W/O CC.	1.1002	2.8	3.9
403	17	MED	LYMPHOMA & NON-ACUTE LEUKEMIA W CC	1.7607	5.7	8.1
404	17	MED	LYMPHOMA & NON-ACUTE LEUKEMIA W/O CC	.8495	3.1	4.2
405	17	MED	*ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE 0–17	1.9067	4.9	4.9
406	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W CC.	2.8109	7.5	10.3
407	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W MAJ O.R.PROC W/O CC.	1.3138	3.6	4.4
408	17	SURG	MYELOPROLIF DISORD OR POORLY DIFF NEOPL W OTHER O.R.PROC.	1.9991	4.7	7.7
409	17	MED	RADIOTHERAPY	1.1226	4.4	5.9
410	17	MED	CHEMOTHERAPY W/O ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS.	.9493	2.9	3.7
411	17	MED	HISTORY OF MALIGNANCY W/O ENDOSCOPY	.3288	2.0	2.3
412	17	MED	HISTORY OF MALIGNANCY W ENDOSCOPY	.4877	2.0	2.7
413	17	MED	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W CC.	1.3665	5.3	7.3
414	17	MED	OTHER MYELOPROLIF DIS OR POORLY DIFF NEOPL DIAG W/O CC.	.7522	3.0	4.1
415	18	SURG	O.R. PROCEDURE FOR INFECTIOUS & PARASITIC DISEASES	3.5919	10.3	14.2
416	18	MED	SEPTICEMIA AGE >17	1.5287	5.5	7.4
417	18	MED	SEPTICEMIA AGE 0–17	1.2437	3.9	6.3
418	18	MED	POSTOPERATIVE & POST-TRAUMATIC INFECTIONS	1.0076	4.8	6.2
419	18	MED	FEVER OF UNKNOWN ORIGIN AGE >17 W CC	.8724	3.7	4.8
420	18	MED	FEVER OF UNKNOWN ORIGIN AGE >17 W/O CC	.6053	2.9	3.6
421	18	MED	VIRAL ILLNESS AGE >17	.6760	3.1	3.9
422	18	MED	VIRAL ILLNESS & FEVER OF UNKNOWN ORIGIN AGE 0–17	.7893	2.8	5.1
423	18	MED	OTHER INFECTIOUS & PARASITIC DISEASES DIAGNOSES	1.7317	5.9	8.2
424	19	SURG	O.R. PROCEDURE W PRINCIPAL DIAGNOSES OF MENTAL ILLNESS.	2.2742	8.7	13.5
425	19	MED	ACUTE ADJUSTMENT REACTION & PSYCHOLOGICAL DYSFUNCTION.	.7022	3.0	4.1
426	19	MED	DEPRESSIVE NEUROSES	.5303	3.3	4.6
427	19	MED	NEUROSES EXCEPT DEPRESSIVE	.5673	3.3	5.0
428	19	MED	DISORDERS OF PERSONALITY & IMPULSE CONTROL	.7360	4.4	7.1
429	19	MED	ORGANIC DISTURBANCES & MENTAL RETARDATION	.8567	4.9	6.6
430	19	MED	PSYCHOSES	.7659	5.9	8.3
431	19	MED	CHILDHOOD MENTAL DISORDERS	.6434	4.7	6.6
432	19	MED	OTHER MENTAL DISORDER DIAGNOSES	.6488	3.2	4.8
433	20	MED	ALCOHOL/DRUG ABUSE OR DEPENDENCE, LEFT AMA	.2829	2.2	3.0
434	20	MED	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT W CC.	.7239	3.9	5.1
435	20	MED	ALC/DRUG ABUSE OR DEPEND, DETOX OR OTH SYMPT TREAT W/O CC.	.4167	3.5	4.3
436	20	MED	ALC/DRUG DEPENDENCE W REHABILITATION THERAPY	.7433	10.3	12.9
437	20	MED	ALC/DRUG DEPENDENCE, COMBINED REHAB & DETOX THERAPY.	.6576	7.6	9.0
438	.....		NO LONGER VALID	.0000	.0	.0
439	21	SURG	SKIN GRAFTS FOR INJURIES	1.7255	5.3	8.2
440	21	SURG	WOUND DEBRIDEMENTS FOR INJURIES	1.9063	5.8	8.9

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
441 ...	21	SURG	HAND PROCEDURES FOR INJURIES	.9443	2.2	3.2
442 ...	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES W CC	2.3391	5.4	8.2
443 ...	21	SURG	OTHER O.R. PROCEDURES FOR INJURIES W/O CC	.9979	2.5	3.4
444 ...	21	MED	TRAUMATIC INJURY AGE >17 W CC	.7225	3.2	4.2
445 ...	21	MED	TRAUMATIC INJURY AGE >17 W/O CC	.5054	2.4	3.0
446 ...	21	MED	*TRAUMATIC INJURY AGE 0–17	.2955	2.4	2.4
447 ...	21	MED	ALLERGIC REACTIONS AGE >17	.5160	1.9	2.5
448 ...	21	MED	*ALLERGIC REACTIONS AGE 0–17	.0972	2.9	2.9
449 ...	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W CC	.8073	2.6	3.7
450 ...	21	MED	POISONING & TOXIC EFFECTS OF DRUGS AGE >17 W/O CC	.4409	1.6	2.1
451 ...	21	MED	*POISONING & TOXIC EFFECTS OF DRUGS AGE 0–17	.2625	2.1	2.1
452 ...	21	MED	COMPLICATIONS OF TREATMENT W CC	1.0135	3.5	5.0
453 ...	21	MED	COMPLICATIONS OF TREATMENT W/O CC	.4998	2.2	2.8
454 ...	21	MED	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W CC	.8586	3.2	4.6
455 ...	21	MED	OTHER INJURY, POISONING & TOXIC EFFECT DIAG W/O CC	.4661	2.0	2.6
456 ...			NO LONGER VALID	.0000	.0	.0
457 ...			NO LONGER VALID	.0000	.0	.0
458 ...			NO LONGER VALID	.0000	.0	.0
459 ...			NO LONGER VALID	.0000	.0	.0
460 ...			NO LONGER VALID	.0000	.0	.0
461 ...	23	SURG	O.R. PROC W DIAGNOSES OF OTHER CONTACT W HEALTH SERVICES.	1.2045	2.4	4.6
462 ...	23	MED	REHABILITATION	1.2426	9.3	11.7
463 ...	23	MED	SIGNS & SYMPTOMS W CC	.6922	3.3	4.3
464 ...	23	MED	SIGNS & SYMPTOMS W/O CC	.4771	2.4	3.1
465 ...	23	MED	AFTERCARE W HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS.	.5777	2.1	3.4
466 ...	23	MED	AFTERCARE W/O HISTORY OF MALIGNANCY AS SECONDARY DIAGNOSIS.	.6777	2.2	3.9
467 ...	23	MED	OTHER FACTORS INFLUENCING HEALTH STATUS	.5112	2.3	4.1
468 ...			EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS.	3.6423	9.2	13.0
469 ...			**PRINCIPAL DIAGNOSIS INVALID AS DISCHARGE DIAGNOSIS	.0000	.0	.0
470 ...			**UNGROUPABLE	.0000	.0	.0
471 ...	08	SURG	BILATERAL OR MULTIPLE MAJOR JOINT PROCS OF LOWER EXTREMITY.	3.1978	5.0	5.7
472 ...			NO LONGER VALID	.0000	.0	.0
473 ...	17	SURG	ACUTE LEUKEMIA W/O MAJOR O.R. PROCEDURE AGE >17	3.5861	7.6	13.1
474 ...			NO LONGER VALID	.0000	.0	.0
475 ...	04	MED	RESPIRATORY SYSTEM DIAGNOSIS WITH VENTILATOR SUPPORT.	3.6949	8.1	11.3
476 ...		SURG	PROSTATIC O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS.	2.2633	8.4	11.6
477 ...		SURG	NON-EXTENSIVE O.R. PROCEDURE UNRELATED TO PRINCIPAL DIAGNOSIS.	1.8270	5.4	8.2
478 ...	05	SURG	OTHER VASCULAR PROCEDURES W CC	2.3372	5.0	7.3
479 ...	05	SURG	OTHER VASCULAR PROCEDURES W/O CC	1.4333	2.8	3.6
480 ...	PRE	SURG	LIVER TRANSPLANT	9.5064	14.6	19.2
481 ...	PRE	SURG	BONE MARROW TRANSPLANT	8.7719	24.1	27.1
482 ...	PRE	SURG	TRACHEOSTOMY FOR FACE, MOUTH & NECK DIAGNOSES	3.5738	9.9	12.8
483 ...	PRE	SURG	TRACHEOSTOMY EXCEPT FOR FACE, MOUTH & NECK DIAGNOSES.	15.8415	33.4	40.7
484 ...	24	SURG	CRANIOTOMY FOR MULTIPLE SIGNIFICANT TRAUMA	5.6100	9.0	13.3
485 ...	24	SURG	LIMB REATTACHMENT, HIP AND FEMUR PROC FOR MULTIPLE SIGNIFICANT TRA.	3.0519	7.6	9.4
486 ...	24	SURG	OTHER O.R. PROCEDURES FOR MULTIPLE SIGNIFICANT TRAUMA.	4.9156	8.1	12.2
487 ...	24	MED	OTHER MULTIPLE SIGNIFICANT TRAUMA	2.0199	5.5	7.7
488 ...	25	SURG	HIV W EXTENSIVE O.R. PROCEDURE	4.5503	11.6	17.0
489 ...	25	MED	HIV W MAJOR RELATED CONDITION	1.7496	6.0	8.6
490 ...	25	MED	HIV W OR W/O OTHER RELATED CONDITION	.9715	3.7	5.1
491 ...	08	SURG	MAJOR JOINT & LIMB REATTACHMENT PROCEDURES OF UPPER EXTREMITY.	1.6661	2.9	3.5
492 ...	17	MED	CHEMOTHERAPY W ACUTE LEUKEMIA AS SECONDARY DIAGNOSIS.	4.2524	10.9	16.1
493 ...	07	SURG	LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W CC	1.8180	4.3	5.7
494 ...	07	SURG	LAPAROSCOPIC CHOLECYSTECTOMY W/O C.D.E. W/O CC	1.0374	2.0	2.5
495 ...	PRE	SURG	LUNG TRANSPLANT	8.5947	13.1	20.3
496 ...	08	SURG	COMBINED ANTERIOR/POSTERIOR SPINAL FUSION	5.5796	7.8	10.0
497 ...	08	SURG	SPINAL FUSION W CC	2.9469	4.9	6.2

TABLE 5.—LIST OF DIAGNOSIS RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC AND ARITHMETIC MEAN LENGTH OF STAY—Continued

DRG	MDC	Type	DRG title	Relative weights	Geometric mean LOS	Arithmetic mean LOS
498 ...	08	SURG	SPINAL FUSION W/O CC	1.9077	2.8	3.4
499 ...	08	SURG	BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W CC	1.4590	3.6	4.8
500 ...	08	SURG	BACK & NECK PROCEDURES EXCEPT SPINAL FUSION W/O CC	.9811	2.2	2.7
501 ...	08	SURG	KNEE PROCEDURES W PDX OF INFECTION W CC	2.6350	8.4	10.6
502 ...	08	SURG	KNEE PROCEDURES W PDX OF INFECTION W/O CC	1.4327	4.9	6.0
503 ...	08	SURG	KNEE PROCEDURES W/O PDX OF INFECTION	1.2151	3.1	4.0
504 ...	22	SURG	EXTENSIVE 3RD DEGREE BURNS W SKIN GRAFT	12.4664	23.9	30.1
505 ...	22	MED	EXTENSIVE 3RD DEGREE BURNS W/O SKIN GRAFT	2.0389	2.5	4.7
506 ...	22	SURG	FULL THICKNESS BURN W SKIN GRAFT OR INHAL INJ W CC OR SIG TRAUMA.	4.4971	13.0	17.6
507 ...	22	SURG	FULL THICKNESS BURN W SKIN GRFT OR INHAL INJ W/O CC OR SIG TRAUMA.	1.8438	6.6	9.2
508 ...	22	MED	FULL THICKNESS BURN W/O SKIN GRFT OR INHAL INJ W CC OR SIG TRAUMA.	1.3119	5.1	7.2
509 ...	22	MED	FULL THICKNESS BURN W/O SKIN GRFT OR INH INJ W/O CC OR SIG TRAUMA.	.8154	4.1	6.2
510 ...	22	MED	NON-EXTENSIVE BURNS W CC OR SIGNIFICANT TRAUMA	1.4130	5.2	7.9
511 ...	22	MED	NON-EXTENSIVE BURNS W/O CC OR SIGNIFICANT TRAUMA	.6568	3.1	4.5

*MEDICARE DATA HAVE BEEN SUPPLEMENTED BY DATA FROM 19 STATES FOR LOW VOLUME DRGS.
**DRGS 469 AND 470 CONTAIN CASES WHICH COULD NOT BE ASSIGNED TO VALID DRGS.
NOTE: GEOMETRIC MEAN IS USED ONLY TO DETERMINE PAYMENT FOR TRANSFER CASES.
NOTE: ARITHMETIC MEAN IS PRESENTED FOR INFORMATIONAL PURPOSES ONLY.
NOTE: RELATIVE WEIGHTS ARE BASED ON MEDICARE PATIENT DATA AND MAY NOT BE APPROPRIATE FOR OTHER PATIENTS.

TABLE 6A.—NEW DIAGNOSIS CODES

Diagnosis code	Description	CC	MDC	DRG
007.5	Cyclosporiasis	N	6	182, 183, 184
082.40	Unspecified ehrlichiosis	N	18	423
082.41	Ehrlichiosis Chafiensis (E. Chafiensis)	N	18	423
082.49	Other ehrlichiosis	N	18	423
285.21	Anemia in end-stage renal disease	N	16	395, 396
285.22	Anemia in neoplastic disease	N	16	395, 396
285.29	Anemia of other chronic illness	N	16	395, 396
294.10	Dementia in conditions classified elsewhere without behavioral disturbance	N	19	429
294.11	Dementia in conditions classified elsewhere with behavioral disturbance	N	19	429
372.81	Conjunctivochalasis	N	2	46, 47, 48
372.89	Other disorders of conjunctiva	N	2	46, 47, 48
477.1	Allergic rhinitis, due to food	N	3	68, 69, 70
493.02	Extrinsic asthma, with acute exacerbation	Y	4	96, 97, 98
493.12	Intrinsic asthma, with acute exacerbation	Y	4	96, 97, 98
493.22	Chronic obstructive asthma, with acute exacerbation	Y	4	88
493.92	Unspecified asthma, with acute exacerbation	Y	4	96, 97, 98
494.0	Bronchiectasis without acute exacerbation	N	4	88
494.1	Bronchiectasis with acute exacerbation	Y	4	88
558.3	Allergic gastroenteritis and colitis	N	6	182, 183, 184
600.0	Hypertrophy (benign) of prostate	N	12	348, 349
600.1	Nodular prostate	N	12	348, 349
600.2	Benign localized hyperplasia of prostate	N	12	348, 349
600.3	Cyst of prostate	N	12	348, 349
600.9	Unspecified hyperplasia of prostate	N	12	348, 349
645.10	Post term pregnancy, unspecified as to episode of care or not applicable	N	14	469
645.11	Post term pregnancy, delivered, with or without mention of antepartum condition.	N	14	370, 371, 372, 373, 374, 375
645.13	Post term pregnancy, antepartum condition or complication	N	14	383, 384
645.20	Prolonged pregnancy, unspecified as to episode of care or not applicable	N	14	469
645.21	Prolonged pregnancy, delivered, with or without mention of antepartum condition.	N	14	370, 371, 372, 373, 374, 375
645.23	Prolonged pregnancy, antepartum condition or complication	N	14	383, 384
692.75	Disseminated superficial actinic porokeratosis (DSAP)	N	9	283, 284
707.10	Unspecified ulcer of lower limb	Y	9	263, 264, 271
707.11	Ulcer of thigh	Y	9	263, 264, 271
707.12	Ulcer of calf	Y	9	263, 264, 271
707.13	Ulcer of ankle	Y	9	263, 264, 271
707.14	Ulcer of heel and midfoot	Y	9	263, 264, 271
707.15	Ulcer of other part of foot	Y	9	263, 264, 271
707.19	Ulcer of other part of lower limb	Y	9	263, 264, 271

TABLE 6A.—NEW DIAGNOSIS CODES—Continued

Diagnosis code	Description	CC	MDC	DRG
727.83	Plica syndrome	N	8	248
781.91	Loss of height	N	1	34, 35
781.92	Abnormal posture	N	1	34, 35
781.99	Other symptoms involving nervous and musculoskeletal systems	N	1	34, 35
783.21	Loss of weight	N	10	296, 297, 298
783.22	Underweight	N	10	296, 297, 298
783.40	Unspecified lack of normal physiological development	N	10	296, 297, 298
783.41	Failure to thrive	N	10	296, 297, 298
783.42	Delayed milestones	N	10	296, 297, 298
783.43	Short stature	N	10	296, 297, 298
783.7	Adult failure to thrive	N	10	296, 297, 298
790.01	Precipitous drop in hematocrit	N	16	395, 396
790.09	Other abnormality of red blood cells	N	16	395, 396
792.5	Cloudy (hemodialysis) (peritoneal) dialysis effluent	N	23	463, 464
995.7	Other adverse food reactions, not elsewhere classified	N	21	454, 455
996.87	Complications of transplanted organ, intestine	Y	21	452, 453
V15.01	Allergy to peanuts	N	23	467
V15.02	Allergy to milk products	N	23	467
V15.03	Allergy to eggs	N	23	467
V15.04	Allergy to seafood	N	23	467
V15.05	Allergy to other foods	N	23	467
V15.06	Allergy to insects	N	23	467
V15.07	Allergy to latex	N	23	467
V15.08	Allergy to radiographic dye	N	23	467
V15.09	Other allergy, other than to medicinal agents	N	23	467
V21.30	Unspecified low birth weight status	N	23	467
V21.31	Low birth weight status, less than 500 grams	N	23	467
V21.32	Low birth weight status, 500–999 grams	N	23	467
V21.33	Low birth weight status, 1000–1499 grams	N	23	467
V21.34	Low birth weight status, 1500–1999 grams	N	23	467
V21.35	Low birth weight status, 2000–2500 grams	N	23	467
V26.21	Fertility testing	N	23	467
V26.22	Aftercare following sterilization reversal	N	23	467
V26.29	Other investigation and testing	N	23	467
V42.84	Organ or tissue replaced by transplant, intestines	Y	23	467
V45.74	Acquired absence of organ, other parts of urinary tract	N	23	467
V45.75	Acquired absence of organ, stomach	N	23	467
V45.76	Acquired absence of organ, lung	N	23	467
V45.77	Acquired absence of organ, genital organs	N	23	467
V45.78	Acquired absence of organ, eye	N	23	467
V45.79	Other acquired absence of organ	N	23	467
V49.81	Postmenopausal status (age-related) (natural)	N	23	467
V49.89	Other specified conditions influencing health status	N	23	467
V56.31	Encounter for adequacy testing for hemodialysis	N	11	317
V56.32	Encounter for adequacy testing for peritoneal dialysis	N	11	317
V58.83	Encounter for therapeutic drug monitoring	N	23	465, 466
V67.00	Follow-up examination, following unspecified surgery	N	23	465, 466
V67.01	Following surgery, follow-up vaginal pap smear	N	23	465, 466
V67.09	Follow-up examination, following other surgery	N	23	465, 466
V71.81	Observation for suspected abuse and neglect	N	23	467
V71.89	Observation for other specified suspected conditions	N	23	467
V76.46	Special screening for malignant neoplasms, ovary	N	23	467
V76.47	Special screening for malignant neoplasms, Vagina	N	23	467
V76.50	Special screening for malignant neoplasms, unspecified intestine	N	23	467
V76.51	Special screening for malignant neoplasms, colon	N	23	467
V76.52	Special screening for malignant neoplasms, small intestine	N	23	467
V76.81	Special screening for malignant neoplasms, nervous system	N	23	467
V76.89	Special screening for other malignant neoplasm	N	23	467
V77.91	Screening for lipoid disorders	N	23	467
V77.99	Other and unspecified endocrine, nutritional, metabolic, and immunity disorders.	N	23	467
V82.81	Special screening for osteoporosis	N	23	467
V82.89	Special screening for other specified conditions	N	23	467

TABLE 6B.—NEW PROCEDURE CODES

Procedure code	Description	OR	MDC	DRG
39.71	Endovascular implantation of graph in abdominal aorta	Y	5	110, 111
			11	315
			21	442, 443
			24	486
39.79	Other endovascular graft repair of aneurysm	Y	1	1, 2, 3
			5	110, 111
			11	315
			21	442, 443
			24	486
41.07	Autologous hematopoietic stem cell transplant with purging	Y	PRE	481
41.08	Allogeneic hematopoietic stem cell transplant with purging	Y	PRE	481
41.09	Autologous bone marrow transplant with purging	Y	PRE	481
46.97	Transplant of intestine	Y	6	148, 149
			7	201
			17	400, 406, 407
			21	442, 443
			24	486
60.96	Transurethral destruction of prostate tissue by microwave thermotherapy	Y	11	306, 307
			12	336, 337
			UNR	476
60.97	Other transurethral destruction of prostate tissue by other thermotherapy	Y	11	306, 307
			12	336, 337
			UNR	476
99.75	Administration of neuroprotective agent	N		

TABLE 6C.—INVALID DIAGNOSIS CODES

Diagnosis code	Description	CC	MDC	DRG
294.1	Dementia in conditions classified elsewhere	N	19	429
372.8	Other disorders of conjunctiva	N	2	46, 47, 48
494	Bronchiectasis	Y	4	88
600	Hyperplasia of prostate	N	12	348, 349
645.00	Prolonged pregnancy, unspecified as to episode of care or not applicable	N	14	469
645.01	Prolonged pregnancy, delivered, with or without mention of antepartum condition.	N	14	370, 371, 372, 373, 374, 375
645.03	Prolonged pregnancy, antepartum condition or complication	N	14	383, 384
707.1	Ulcer of lower limb, except decubitus	Y	9	263, 264, 271
781.9	Other symptoms involving nervous and musculoskeletal systems	N	1	34, 35
783.2	Abnormal loss of weight	N	10	296, 297, 298
783.4	Lack of expected normal physiological development	N	10	296, 297, 298
790.0	Abnormality of red blood cells	N	16	395, 396
V15.0	Allergy, other than to medicinal agents	N	23	467
V26.2	Investigation and testing	N	23	467
V49.8	Other specified problems influencing health status	N	23	467
V67.0	Follow-up examination following surgery	N	23	465, 466
V71.8	Observation for other specified suspected conditions	N	23	467
V76.8	Special screening for malignant neoplasms, other neoplasm	N	23	467
V77.9	Other and unspecified endocrine, nutritional, metabolic, and immunity disorders.	N	23	467
V82.8	Special screening for other specified conditions	N	23	467

TABLE 6D.—REVISED DIAGNOSIS CODE TITLES

Diagnosis code	Description	CC	MDC	DRG
564.1	Irritable bowel syndrome	N	6	182, 183, 184
V26.3	Genetic counseling and testing	N	23	467
V76.49	Special screening for malignant, other sites	N	23	467

TABLE 6E.—REVISED PROCEDURE CODES

Procedure code	Description	OR	MDC	DRG
41.01	Autologous bone marrow transplant without purging	Y	PRE	481
41.04	Autologous hematopoietic stem cell transplant without purging	Y	PRE	481
41.05	Allogeneic hematopoietic stem cell transplant without purging	Y	PRE	481
86.59	Closure of skin and subcutaneous tissue other sites	N		

TABLE 6F.—ADDITIONS TO THE CC EXCLUSIONS LIST

CCs that are added to the list are in Table 6F—Additions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

*0075	2818	70713	49312	01170	4870	01152	4829
00841	2824	70714	49322	01171	4950	01153	4830
00842	28260	70715	49392	01172	4951	01154	4831
00843	28261	70719	*49391	01173	4952	01155	4838
00844	28262	*4871	49302	01174	4953	01156	4841
00845	28263	4941	49312	01175	4954	01160	4843
00846	28269	*49300	49322	01176	4955	01161	4845
00847	2830	49302	49392	01180	4956	01162	4846
00849	28310	49312	*49392	01181	4957	01163	4847
*01790	28311	49322	49301	01182	4958	01164	4848
4941	28319	49392	49302	01183	4959	01165	485
*01791	2832	*49301	49311	01184	496	01166	486
4941	2839	49302	49312	01185	5060	01170	4870
*01792	2840	49312	49320	01186	5061	01171	4941
4941	2848	49322	49321	01190	5070	01172	4950
*01793	2849	49392	49322	01191	5071	01173	4951
4941	2850	*49302	49391	01192	5078	01174	4952
*01794	2851	49301	49392	01193	5080	01175	4953
4941	*29410	49302	*4940	01194	5081	01176	4954
*01795	2910	49311	01100	01195	515	01180	4955
4941	2911	49312	01101	01196	5160	01181	4956
*01796	2912	49320	01102	01200	5161	01182	4957
4941	2913	49321	01103	01201	5162	01183	4958
*28521	2914	49322	01104	01202	5163	01184	4959
2800	29181	49391	01105	01203	5168	01185	496
2814	29189	49392	01106	01204	5169	01186	5060
2818	2919	*49310	01110	01205	5171	01190	5061
2824	2920	49302	01111	01206	5172	01191	5070
28260	29211	49312	01112	01210	5178	01192	5071
28261	29212	49322	01113	01211	74861	01193	5078
28262	2922	49392	01114	01212	*4941	01194	5080
28263	29281	*49311	01115	01213	01100	01195	5081
28269	29282	49302	01116	01214	01101	01196	515
2830	29283	49312	01120	01215	01102	01200	5160
28310	29284	49322	01121	01216	01103	01201	5161
28311	29289	49392	01122	0310	01104	01202	5162
28319	2929	*49312	01123	11505	01105	01203	5163
2832	29381	49301	01124	11515	01106	01204	5168
2839	29382	49302	01125	1304	01110	01205	5169
2840	29383	49311	01126	1363	01111	01206	5171
2848	29384	49312	01130	481	01112	01210	5172
2849	*29411	49320	01131	4820	01113	01211	5178
2850	2910	49321	01132	4821	01114	01212	74861
2851	2911	49322	01133	4822	01115	01213	*496
*28522	2912	49391	01134	48230	01116	01214	4941
2800	2913	49392	01135	48231	01120	01215	*5061
2814	2914	*49320	01136	48232	01121	01216	4941
2818	29181	49302	01140	48239	01122	0310	*5064
2824	29189	49312	01141	48240	01123	11505	4941
28260	2919	49322	01142	48241	01124	11515	*5069
28261	2920	49392	01143	48249	01125	1304	4941
28262	29211	*49321	01144	48281	01126	1363	*5178
28263	29212	49302	01145	48282	01130	481	49302
28269	2922	49312	01146	48283	01131	4820	49312
2830	29281	49322	01150	48284	01132	4821	49322
28310	29282	49392	01151	48289	01133	4822	49392
28311	29283	*49322	01152	4829	01134	48230	*51889
28319	29284	49301	01153	4830	01135	48231	49302
2832	29289	49302	01154	4831	01136	48232	49312
2839	2929	49311	01155	4838	01140	48239	49322
2840	29381	49312	01156	4841	01141	48240	49392
2848	29382	49320	01160	4843	01142	48241	*5198
2849	29383	49321	01161	4845	01143	48249	49302
2850	29384	49322	01162	4846	01144	48281	49312
2851	*44023	49391	01163	4847	01145	48282	49322
*28529	70710	49392	01164	4848	01146	48283	49392
2800	70711	*49390	01165	485	01150	48284	*5199
2814	70712	49302	01166	486	01151	48289	49302

TABLE 6F.—ADDITIONS TO THE CC EXCLUSIONS LIST—Continued

CCs that are added to the list are in Table 6F—Additions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

49312	*70712	V421
49322	70710	V426
49392	70711	V427
*5583	70712	V4281
00841	70713	V4282
00842	70714	V4283
00843	70715	V4289
00844	70719	V432
00845	*70713	*99689
00846	70710	V4284
00847	70711	*99791
00849	70712	99687
*6000	70713	*99799
5960	70714	99687
5996	70715	*V4284
6010	70719	V4284
6012	*70714	*V4289
6013	70710	V4284
6021	70711	*V429
78820	70712	V4284
78829	70713	
*6001	70714	
5960	70715	
5996	70719	
6010	*70715	
6012	70710	
6013	70711	
6021	70712	
78820	70713	
78829	70714	
*6002	70715	
5960	70719	
5996	*70719	
6010	70710	
6012	70711	
6013	70712	
6021	70713	
78820	70714	
78829	70715	
*6003	70719	
5960	*7078	
5996	70710	
6010	70711	
6012	70712	
6013	70713	
6021	70714	
78820	70715	
78829	70719	
*6009	*7079	
5960	70710	
5996	70711	
6010	70712	
6012	70713	
6013	70714	
6021	70715	
78820	70719	
78829	*7098	
*70710	70710	
70710	70711	
70711	70712	
70712	70713	
70713	70714	
70714	70715	
70715	70719	
70719	*74861	
*70711	4941	
70710	*99680	
70711	99687	
70712	V4284	
70713	*99687	
70714	99680	
70715	99687	
70719	V420	

TABLE 6G.—DELECTIONS TO THE CC EXCLUSIONS LIST

CCs that are deleted from the list are in Table 6G—Deletions to the CC Exclusions List. Each of the principal diagnoses is shown with an asterisk, and the revisions to the CC Exclusions List are provided in an indented column immediately following the affected principal diagnosis.

*01790	01135	48231	6021
494	01136	48232	78820
*01791	01140	48239	78829
494	01141	48240	*7071
*01792	01142	48241	7071
494	01143	48249	*7078
*01793	01144	48281	7071
494	01145	48282	*7079
*01794	01146	48283	7071
494	01150	48284	*7098
01795	01151	48289	7071
494	01152	4829	*74861
*01796	01153	4830	494
494	01154	4831	
*2941	01155	4838	
2910	01156	4841	
2911	01160	4843	
2912	01161	4845	
2913	01162	4846	
2914	01163	4847	
29181	01164	4848	
29189	01165	485	
2919	01166	486	
2920	01170	4870	
29211	01171	494	
29212	01172	4950	
2922	01173	4951	
29281	01174	4952	
29282	01175	4953	
29283	01176	4954	
29284	01180	4955	
29289	01181	4956	
2929	01182	4957	
29381	01183	4958	
29382	01184	4959	
29383	01185	496	
29384	01186	5060	
*44023	01190	5061	
7071	01191	5070	
*4871	01192	5071	
494	01193	5078	
*494	01194	5080	
01100	01195	5081	
01101	01196	515	
01102	01200	5160	
01103	01201	5161	
01104	01202	5162	
01105	01203	5163	
01106	01204	5168	
01110	01205	5169	
01111	01206	5171	
01112	01210	5172	
01113	01211	5178	
01114	01212	74861	
01115	01213	*496	
01116	01214	494	
01120	01215	*5061	
01121	01216	494	
01122	0310	*5064	
01123	11505	494	
01124	11515	*5069	
01125	1304	494	
01126	1363	*600	
01130	481	5960	
01131	4820	5996	
01132	4821	6010	
01133	4822	6012	
01134	48230	6013	

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY

[FY99 MEDPAR Update 12/99 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
1	35069	9.0962	2	4	6	12	19
2	7064	9.6692	3	5	7	12	19
4	6022	7.3316	1	2	5	9	16
5	95151	3.2852	1	1	2	3	7
6	340	3.2412	1	1	2	4	7
7	12054	10.2745	2	4	7	13	21
8	3662	3.0145	1	1	2	4	7
9	1623	6.4898	1	3	5	8	12
10	18297	6.5874	2	3	5	8	13
11	3300	4.1488	1	2	3	5	8
12	44849	6.0417	2	3	4	7	11
13	6185	5.0928	2	3	4	6	9
14	330036	5.9583	2	3	5	7	11
15	139608	3.6293	1	2	3	5	7
16	11101	6.1222	2	3	5	7	12
17	3437	3.3750	1	2	3	4	6
18	25899	5.5415	2	3	4	7	10
19	7951	3.7393	1	2	3	5	7
20	5735	10.2382	3	5	8	13	20
21	1356	6.8754	2	3	5	9	13
22	2501	4.9384	2	2	4	6	9
23	8311	4.2224	1	2	3	5	8
24	52472	5.0144	1	2	4	6	10
25	24380	3.3056	1	2	3	4	6
26	20	3.2000	1	1	2	3	7
27	3567	5.0962	1	1	3	6	11
28	10686	6.2281	1	3	5	8	13
29	3910	3.7133	1	2	3	5	7
31	3209	4.2312	1	2	3	5	8
32	1545	2.7398	1	1	2	3	5
34	19531	5.1937	1	2	4	6	10
35	5177	3.4199	1	2	3	4	6
36	4223	1.3640	1	1	1	1	2
37	1476	3.6917	1	1	3	5	8
38	115	2.5304	1	1	1	3	5
39	1152	1.9106	1	1	1	2	4
40	1755	3.5801	1	1	2	4	8
41	1	4.0000	4	4	4	4	4
42	2698	2.2279	1	1	1	3	5
43	83	3.3012	1	2	3	4	7
44	1226	4.9625	2	3	4	6	9
45	2490	3.2743	1	2	3	4	6
46	2940	4.5871	1	2	4	6	9
47	1183	3.2975	1	1	3	4	6
49	2228	4.9677	1	2	4	6	9
50	2569	1.9844	1	1	1	2	3
51	264	2.5606	1	1	1	3	6
52	196	2.1276	1	1	1	2	5
53	2569	3.6734	1	1	2	4	8
54	4	1.5000	1	1	1	1	3
55	1560	2.8865	1	1	1	3	6
56	526	3.0646	1	1	2	4	6
57	579	3.9862	1	1	2	4	8
59	111	2.4414	1	1	2	2	5
60	2	1.0000	1	1	1	1	1
61	208	4.8894	1	1	2	6	13
62	2	3.5000	2	2	5	5	5
63	3168	4.2601	1	2	3	5	9
64	3162	6.4756	1	2	4	8	14
65	31728	2.8963	1	1	2	4	5
66	6938	3.1721	1	1	3	4	6
67	477	3.5241	1	2	3	4	7
68	13401	4.1595	1	2	3	5	8
69	4228	3.2774	1	2	3	4	6
70	33	2.9091	1	2	3	4	5
71	105	3.8667	1	2	3	6	7
72	812	3.3017	1	2	3	4	6
73	6402	4.3380	1	2	3	5	8
75	39147	9.9967	3	5	8	12	20
76	39851	11.2556	3	5	9	14	21

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
77	2375	4.8880	1	2	4	7	10
78	30492	6.9444	3	5	6	8	11
79	183121	8.4551	3	4	7	11	16
80	8291	5.6652	2	3	5	7	10
81	5	9.2000	2	2	10	10	19
82	63683	6.9428	2	3	5	9	14
83	6462	5.5305	2	3	4	7	10
84	1494	3.3681	1	2	3	4	6
85	20066	6.3638	2	3	5	8	12
86	1923	3.7889	1	2	3	5	7
87	62959	6.2450	1	3	5	8	12
88	403808	5.2212	2	3	4	7	9
89	524107	6.0245	2	3	5	7	11
90	51271	4.2271	2	3	4	5	7
91	49	3.3061	1	2	3	4	5
92	13763	6.2465	2	3	5	8	12
93	1543	3.9942	1	2	3	5	7
94	12332	6.3027	2	3	5	8	12
95	1561	3.6887	1	2	3	5	7
96	64893	4.7277	2	3	4	6	8
97	31521	3.6879	1	2	3	5	7
98	18	4.6667	1	1	3	6	7
99	18166	3.2204	1	1	2	4	6
100	7230	2.2047	1	1	2	3	4
101	19700	4.4248	1	2	3	5	8
102	4970	2.7360	1	1	2	3	5
103	442	48.6041	9	12	29	64	112
104	33069	11.6306	3	6	10	15	22
105	29348	9.2675	4	5	7	11	17
106	3800	11.2111	5	7	9	13	20
107	90499	10.3531	5	7	9	12	17
108	5234	10.5728	3	5	8	13	20
109	61584	7.7338	4	5	6	9	13
110	54902	9.4567	2	5	8	11	18
111	7109	5.4788	2	4	5	7	8
112	60796	3.7594	1	1	3	5	8
113	44201	12.0562	3	6	9	15	24
114	8478	8.2536	2	4	7	10	16
115	14032	8.4152	1	4	7	11	16
116	308071	3.7287	1	1	3	5	8
117	3404	4.0523	1	1	2	5	9
118	6649	2.8117	1	1	1	3	6
119	1445	4.8374	1	1	3	6	12
120	36651	8.1192	1	2	5	10	18
121	163449	6.4387	2	3	5	8	12
122	80682	3.8317	1	2	3	5	7
123	40870	4.5742	1	1	3	6	11
124	134743	4.3708	1	2	3	6	8
125	74923	2.7862	1	1	2	4	5
126	5131	11.6936	3	6	9	14	22
127	680654	5.3354	2	3	4	7	10
128	11526	5.8044	3	4	5	7	9
129	4173	2.8447	1	1	1	3	7
130	89048	5.8037	2	3	5	7	10
131	26830	4.3785	1	3	4	6	7
132	152932	3.0474	1	1	2	4	6
133	7573	2.3956	1	1	2	3	4
134	32813	3.2987	1	2	3	4	6
135	7100	4.4668	1	2	3	5	9
136	1170	2.9120	1	1	2	4	6
138	191436	4.0071	1	2	3	5	8
139	77194	2.5069	1	1	2	3	5
140	76478	2.7136	1	1	2	3	5
141	85791	3.7068	1	2	3	5	7
142	42652	2.6766	1	1	2	3	5
143	185700	2.1667	1	1	2	3	4
144	78800	5.3171	1	2	4	7	11
145	6884	2.8117	1	1	2	4	6
146	11215	10.1815	5	7	9	12	17
147	2418	6.6208	3	5	6	8	10

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
148	134272	12.1101	5	7	10	14	22
149	17551	6.6488	4	5	6	8	10
150	20300	11.1450	4	7	9	14	20
151	4479	5.9272	2	3	5	8	10
152	4441	8.1743	3	5	7	10	14
153	1914	5.4713	3	4	5	7	8
154	29346	13.2615	4	7	10	16	25
155	6052	4.3354	1	2	3	6	8
156	2	28.0000	28	28	28	28	28
157	8196	5.4926	1	2	4	7	11
158	4393	2.6271	1	1	2	3	5
159	16421	5.0258	1	2	4	6	10
160	10974	2.7204	1	1	2	4	5
161	11483	4.1695	1	2	3	5	9
162	7018	1.9577	1	1	1	2	4
163	8	2.7500	1	1	3	3	3
164	4720	8.4019	4	5	7	10	15
165	1942	4.8553	2	3	5	6	8
166	3307	5.0889	2	3	4	6	9
167	2896	2.7099	1	2	2	3	5
168	1511	4.5963	1	2	3	6	9
169	802	2.4214	1	1	2	3	5
170	11287	11.1669	2	5	8	14	23
171	1125	4.7911	1	2	4	6	9
172	30485	6.9710	2	3	5	9	14
173	2492	3.8435	1	1	3	5	8
174	236408	4.8222	2	3	4	6	9
175	28026	2.9414	1	2	3	4	5
176	15607	5.2668	2	3	4	6	10
177	9489	4.5521	2	2	4	6	8
178	3568	3.1373	1	2	3	4	6
179	12177	6.0139	2	3	5	7	11
180	85083	5.3978	2	3	4	7	10
181	24320	3.4134	1	2	3	4	6
182	232501	4.3626	1	2	3	5	8
183	78432	2.9618	1	1	2	4	6
184	98	3.2449	1	2	2	4	5
185	4300	4.4963	1	2	3	6	9
186	2	4.5000	2	2	7	7	7
187	722	3.8130	1	2	3	5	8
188	74594	5.5723	1	2	4	7	11
189	11097	3.1388	1	1	2	4	6
190	69	6.0290	2	3	4	6	11
191	9367	14.0878	4	7	10	18	28
192	974	6.5842	2	4	6	8	11
193	5669	12.5490	5	7	10	15	23
194	755	6.7497	2	4	6	8	12
195	4869	9.9029	4	6	8	12	17
196	1190	5.6832	2	4	5	7	9
197	20225	8.7363	3	5	7	11	16
198	6079	4.4996	2	3	4	6	8
199	1724	9.6456	3	4	8	12	19
200	1071	10.7404	2	4	8	14	22
201	1465	13.8314	3	6	11	18	27
202	25595	6.5031	2	3	5	8	13
203	28958	6.6940	2	3	5	9	13
204	54818	5.8581	2	3	4	7	11
205	22519	6.2964	2	3	5	8	12
206	1778	3.8335	1	2	3	5	7
207	30768	5.1176	1	2	4	6	10
208	9616	2.8974	1	1	2	4	6
209	342301	5.1232	3	3	4	6	8
210	126555	6.8082	3	4	6	8	11
211	31227	4.9152	3	4	4	6	7
212	7	3.0000	2	2	2	3	4
213	8882	8.7299	2	4	7	11	17
216	5822	9.7583	2	4	7	12	19
217	17573	13.0833	3	5	9	16	28
218	21344	5.3594	2	3	4	6	10
219	19125	3.2444	1	2	3	4	5

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
220	2	2.5000	1	1	4	4	4
223	17434	2.5812	1	1	2	3	5
224	7953	2.0448	1	1	2	3	4
225	5575	4.7146	1	2	3	6	10
226	4985	6.2828	1	2	4	8	13
227	4416	2.6594	1	1	2	3	5
228	2437	3.5568	1	1	2	4	8
229	1080	2.3944	1	1	2	3	5
230	2102	5.1237	1	2	3	6	10
231	10618	4.8282	1	2	3	6	10
232	565	3.5894	1	1	2	4	9
233	4542	7.6797	2	3	5	9	16
234	2666	3.5709	1	2	3	4	7
235	5334	5.1245	1	2	4	6	10
236	38564	4.8516	1	3	4	6	9
237	1576	3.7386	1	2	3	5	7
238	7594	8.4664	3	4	6	10	16
239	51719	6.2172	2	3	5	8	12
240	11850	6.5754	2	3	5	8	13
241	2953	3.9401	1	2	3	5	7
242	2477	6.5268	2	3	5	8	12
243	84831	4.7022	1	3	4	6	9
244	11891	4.7802	1	2	4	6	9
245	4929	3.7206	1	2	3	4	7
246	1342	3.6461	1	2	3	4	7
247	15047	3.4443	1	1	3	4	7
248	9336	4.7321	1	2	4	6	9
249	10719	3.7768	1	1	3	5	8
250	3509	4.2485	1	2	3	5	8
251	2351	2.9872	1	1	3	4	5
252	1	2.0000	2	2	2	2	2
253	18878	4.6841	1	3	4	6	9
254	10341	3.2080	1	2	3	4	6
255	1	1.0000	1	1	1	1	1
256	5803	5.1260	1	2	4	6	10
257	16795	2.8263	1	2	2	3	5
258	15710	2.0006	1	1	2	2	3
259	3717	2.7896	1	1	1	3	6
260	4780	1.4749	1	1	1	2	2
261	1730	2.1624	1	1	1	2	4
262	673	3.8098	1	1	3	5	7
263	24527	11.5534	3	5	8	14	23
264	3877	6.9010	2	3	5	8	14
265	3868	6.6099	1	2	4	8	14
266	2527	3.3174	1	1	2	4	7
267	255	5.2353	1	1	3	6	12
268	896	3.6953	1	1	2	4	8
269	8856	8.2516	2	3	6	10	16
270	2734	3.2579	1	1	2	4	7
271	21090	7.1019	2	4	6	8	13
272	5465	6.3420	2	3	5	8	12
273	1341	4.2118	1	2	3	5	8
274	2368	6.9548	2	3	5	9	14
275	224	3.3125	1	1	2	4	7
276	1076	4.6515	1	2	4	6	9
277	83707	5.7178	2	3	5	7	10
278	28524	4.3359	2	3	4	5	7
279	4	4.0000	2	2	4	5	5
280	15047	4.1980	1	2	3	5	8
281	6682	3.0805	1	1	3	4	6
283	5322	4.5569	1	2	3	6	9
284	1852	3.1960	1	1	2	4	6
285	6125	10.4263	3	5	8	13	20
286	1995	6.2000	2	3	5	7	11
287	5974	10.5387	3	5	8	13	20
288	2252	5.7234	2	3	4	6	9
289	4326	3.1248	1	1	2	3	7
290	8214	2.4329	1	1	2	2	4
291	57	1.6316	1	1	1	2	2
292	4945	9.9610	2	4	7	13	21

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
293	321	4.9346	1	2	4	7	10
294	83924	4.7128	1	2	4	6	9
295	3464	3.8467	1	2	3	5	7
296	232274	5.2398	2	3	4	6	10
297	40842	3.4744	1	2	3	4	6
298	106	3.1887	1	2	2	4	6
299	1052	5.5542	1	2	4	6	11
300	15582	6.1317	2	3	5	8	12
301	3101	3.7004	1	2	3	5	7
302	7525	9.4141	4	5	7	11	16
303	19405	8.4850	4	5	7	10	15
304	11967	8.8979	2	4	7	11	18
305	2852	3.8443	1	2	3	5	7
306	7925	5.4829	1	2	3	7	12
307	2226	2.2668	1	1	2	3	4
308	7673	6.3836	1	2	4	8	14
309	3947	2.4880	1	1	2	3	5
310	23701	4.3591	1	2	3	5	9
311	8200	1.8902	1	1	1	2	3
312	1570	4.5166	1	1	3	6	10
313	633	2.1153	1	1	1	3	4
314	2	1.0000	1	1	1	1	1
315	28524	7.4721	1	1	5	10	17
316	96406	6.6791	2	3	5	8	13
317	1230	3.2114	1	1	2	3	6
318	5544	5.9975	1	3	4	7	12
319	460	2.8630	1	1	2	4	6
320	181708	5.3834	2	3	4	7	10
321	28174	3.8452	1	2	3	5	7
322	69	4.0580	1	2	3	5	7
323	16353	3.2183	1	1	2	4	7
324	7365	1.8789	1	1	1	2	3
325	7788	3.8947	1	2	3	5	7
326	2414	2.6582	1	1	2	3	5
327	7	9.2857	1	1	2	4	13
328	718	3.9053	1	1	3	5	8
329	104	2.0481	1	1	1	3	4
331	43233	5.5300	1	2	4	7	11
332	4795	3.2715	1	1	2	4	7
333	296	5.0507	1	2	3	6	10
334	12132	4.8938	2	3	4	6	8
335	11393	3.4104	2	3	3	4	5
336	40525	3.5229	1	2	3	4	7
337	30540	2.1759	1	1	2	3	3
338	1641	5.2956	1	2	3	7	12
339	1503	4.5269	1	1	3	6	10
340	1	1.0000	1	1	1	1	1
341	3836	3.2018	1	1	2	3	7
342	775	3.1174	1	2	2	4	6
344	3934	2.2567	1	1	1	2	4
345	1272	3.7673	1	1	2	5	8
346	4622	5.8090	1	3	4	7	11
347	396	3.3712	1	1	2	4	7
348	3105	4.2029	1	2	3	5	8
349	589	2.6027	1	1	2	3	5
350	6157	4.3937	2	2	4	5	8
352	646	3.8498	1	2	3	5	8
353	2631	6.7081	3	3	5	8	13
354	8209	5.8725	3	3	4	7	10
355	5698	3.3243	2	3	3	4	5
356	25961	2.4179	1	1	2	3	4
357	5767	8.4947	3	4	7	10	16
358	21628	4.3926	2	3	3	5	7
359	29103	2.8141	2	2	3	3	4
360	16133	2.9634	1	2	2	3	5
361	420	3.4524	1	1	2	4	7
362	1	1.0000	1	1	1	1	1
363	3079	3.4784	1	2	2	3	7
364	1611	3.5847	1	1	2	5	7
365	1917	7.3005	2	3	5	9	16

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
366	4226	6.7283	1	3	5	8	14
367	472	3.1462	1	1	2	4	7
368	2861	6.7113	2	3	5	8	13
369	2832	3.1963	1	1	2	4	6
370	1141	5.7160	3	3	4	5	9
371	1174	3.6567	2	3	3	4	5
372	916	3.4509	2	2	2	3	5
373	3916	2.2829	1	2	2	2	3
374	125	3.4880	2	2	2	3	5
375	6	2.6667	2	2	2	3	3
376	254	3.4803	1	2	2	4	7
377	53	3.8679	1	1	2	5	8
378	151	2.3444	1	1	2	3	4
379	355	3.1127	1	1	2	3	7
380	74	2.1622	1	1	2	2	4
381	176	1.9545	1	1	1	2	3
382	39	1.3077	1	1	1	1	2
383	1545	3.8913	1	1	3	5	8
384	123	2.3415	1	1	1	2	4
389	8	5.8750	3	3	4	8	10
390	19	3.7368	1	1	3	5	7
392	2508	9.4769	3	4	7	12	19
393	1	8.0000	8	8	8	8	8
394	1724	6.6810	1	2	4	8	15
395	80464	4.5303	1	2	3	6	9
396	17	3.7059	1	1	2	5	6
397	18071	5.2277	1	2	4	7	10
398	18051	5.9638	2	3	5	7	11
399	1614	3.5520	1	2	3	4	7
400	6845	9.0488	1	3	6	12	20
401	5827	11.1903	2	5	8	14	23
402	1483	3.9400	1	1	3	5	8
403	33277	8.0524	2	3	6	10	17
404	4491	4.2224	1	2	3	6	9
406	2546	10.2859	3	4	7	13	21
407	695	4.4086	1	2	4	6	8
408	2246	7.7061	1	2	5	10	18
409	3281	5.9113	2	3	4	6	11
410	40863	3.7201	1	2	3	5	6
411	13	2.3077	1	1	2	4	4
412	29	2.7241	1	1	2	3	6
413	6149	7.2477	2	3	6	9	14
414	712	4.0941	1	2	3	5	9
415	39856	14.1713	4	6	11	18	28
416	195783	7.3483	2	4	6	9	14
417	32	6.1875	1	2	4	7	13
418	22097	6.1239	2	3	5	7	11
419	15859	4.8212	2	2	4	6	9
420	3091	3.5642	1	2	3	4	6
421	12242	3.8638	1	2	3	5	7
422	96	5.2708	1	2	2	5	7
423	8073	8.1416	2	3	6	10	17
424	1354	13.3936	2	5	9	16	28
425	15006	4.0716	1	2	3	5	8
426	4313	4.5613	1	2	3	6	9
427	1660	5.0283	1	2	3	6	10
428	839	7.1025	1	2	4	8	15
429	27480	6.4737	2	3	5	8	12
430	58011	8.2066	2	3	6	10	16
431	295	6.5864	2	3	5	8	13
432	389	4.7506	1	2	3	5	9
433	5781	3.0073	1	1	2	4	6
434	21835	5.0844	1	2	4	6	9
435	14486	4.2925	1	2	4	5	8
436	3499	12.8337	4	7	11	17	25
437	9750	8.9544	3	5	8	11	15
439	1287	8.1756	1	3	5	10	17
440	5017	8.8433	2	3	6	10	19
441	579	3.2383	1	1	2	4	7
442	15896	8.2292	1	3	6	10	17

TABLE 7A.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V17.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
443	3547	3.3941	1	1	2	4	7
444	5150	4.2252	1	2	3	5	8
445	2223	3.0031	1	1	2	4	5
447	4854	2.5117	1	1	2	3	5
448	1	4.0000	4	4	4	4	4
449	26543	3.6722	1	1	3	4	7
450	6363	2.0525	1	1	1	2	4
451	1	1.0000	1	1	1	1	1
452	21656	4.9536	1	2	3	6	10
453	4464	2.8156	1	1	2	3	5
454	4930	4.5554	1	2	3	6	9
455	1070	2.6262	1	1	2	3	5
461	3356	4.5584	1	1	2	5	11
462	12630	11.5264	4	6	9	15	21
463	18895	4.2653	1	2	3	5	8
464	5456	3.0770	1	1	2	4	6
465	227	3.3612	1	1	2	3	7
466	1719	3.8674	1	1	2	4	8
467	1301	4.0638	1	1	2	4	7
468	58386	12.9325	3	6	10	17	26
471	11423	5.7339	3	4	5	6	9
473	7615	12.8411	2	3	7	19	32
475	109114	11.1765	2	5	9	15	22
476	4448	11.6369	2	5	10	15	21
477	25690	8.1425	1	3	6	10	17
478	111192	7.3159	1	3	5	9	15
479	22375	3.6220	1	2	3	5	7
480	460	19.1848	7	9	14	23	38
481	229	27.1485	16	19	23	32	43
482	6119	12.7756	4	7	10	15	24
483	43070	38.8321	14	21	32	49	70
484	323	13.3065	2	5	10	18	28
485	2932	9.3905	4	5	7	11	17
486	2012	12.1511	1	5	9	16	24
487	3491	7.5408	1	3	6	10	15
488	767	16.9465	4	7	12	21	34
489	14253	8.5597	2	3	6	10	18
490	5283	5.1333	1	2	4	6	10
491	11332	3.4896	2	2	3	4	6
492	2667	16.1234	4	5	9	26	34
493	54030	5.7170	1	3	5	7	11
494	27254	2.4838	1	1	2	3	5
495	145	20.2552	6	8	12	18	33
496	1270	9.9843	4	5	7	12	18
497	22593	6.2173	2	3	5	7	11
498	19133	3.4179	1	2	3	4	6
499	30738	4.7687	1	2	4	6	9
500	42090	2.6897	1	1	2	3	5
501	1943	10.5713	4	5	8	13	20
502	612	5.9379	2	3	5	7	10
503	5563	3.9730	1	2	3	5	7
504	122	30.0984	10	15	25	40	60
505	153	4.7190	1	1	2	6	12
506	962	17.6258	4	8	14	24	37
507	280	9.1857	2	4	7	13	18
508	637	7.1350	2	3	5	9	15
509	165	6.1333	1	2	4	8	12
510	1653	7.8506	2	3	5	9	17
511	594	4.4646	1	1	3	6	10
	10930692						

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY

[FY99 MEDPAR Update 12/99 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
1	35069	9.0962	2	4	6	12	19

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
2	7064	9.6692	3	5	7	12	19
4	6022	7.3316	1	2	5	9	16
5	95151	3.2852	1	1	2	3	7
6	340	3.2412	1	1	2	4	7
7	12054	10.2745	2	4	7	13	21
8	3662	3.0145	1	1	2	4	7
9	1623	6.4898	1	3	5	8	12
10	18297	6.5874	2	3	5	8	13
11	3300	4.1488	1	2	3	5	8
12	44849	6.0417	2	3	4	7	11
13	6185	5.0928	2	3	4	6	9
14	362463	6.0528	2	3	5	7	11
15	139608	3.6293	1	2	3	5	7
16	11101	6.1222	2	3	5	7	12
17	3437	3.3750	1	2	3	4	6
18	25899	5.5415	2	3	4	7	10
19	7951	3.7393	1	2	3	5	7
20	5735	10.2382	3	5	8	13	20
21	1356	6.8754	2	3	5	9	13
22	2501	4.9384	2	2	4	6	9
23	8311	4.2224	1	2	3	5	8
24	52472	5.0144	1	2	4	6	10
25	24380	3.3056	1	2	3	4	6
26	20	3.2000	1	1	2	3	7
27	3567	5.0962	1	1	3	6	11
28	10685	6.2270	1	3	5	8	13
29	3910	3.7133	1	2	3	5	7
31	3209	4.2312	1	2	3	5	8
32	1545	2.7398	1	1	2	3	5
34	19531	5.1937	1	2	4	6	10
35	5177	3.4199	1	2	3	4	6
36	4223	1.3640	1	1	1	1	2
37	1476	3.6917	1	1	3	5	8
38	115	2.5304	1	1	1	3	5
39	1152	1.9106	1	1	1	2	4
40	1755	3.5801	1	1	2	4	8
41	1	4.0000	4	4	4	4	4
42	2698	2.2279	1	1	1	3	5
43	83	3.3012	1	2	3	4	7
44	1226	4.9625	2	3	4	6	9
45	2490	3.2743	1	2	3	4	6
46	2940	4.5871	1	2	4	6	9
47	1183	3.2975	1	1	3	4	6
49	2228	4.9677	1	2	4	6	9
50	2569	1.9844	1	1	1	2	3
51	264	2.5606	1	1	1	3	6
52	196	2.1276	1	1	1	2	5
53	2569	3.6734	1	1	2	4	8
54	4	1.5000	1	1	1	1	3
55	1560	2.8865	1	1	1	3	6
56	526	3.0646	1	1	2	4	6
57	579	3.9862	1	1	2	4	8
59	111	2.4414	1	1	2	2	5
60	2	1.0000	1	1	1	1	1
61	208	4.8894	1	1	2	6	13
62	2	3.5000	2	2	5	5	5
63	3168	4.2601	1	2	3	5	9
64	3162	6.4756	1	2	4	8	14
65	31728	2.8963	1	1	2	4	5
66	6938	3.1721	1	1	3	4	6
67	477	3.5241	1	2	3	4	7
68	13401	4.1595	1	2	3	5	8
69	4228	3.2774	1	2	3	4	6
70	33	2.9091	1	2	3	4	5
71	105	3.8667	1	2	3	6	7
72	812	3.3017	1	2	3	4	6
73	6402	4.3380	1	2	3	5	8
75	39147	9.9967	3	5	8	12	20
76	39851	11.2556	3	5	9	14	21
77	2375	4.8880	1	2	4	7	10

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
78	30492	6.9444	3	5	6	8	11
79	183121	8.4551	3	4	7	11	16
80	8291	5.6652	2	3	5	7	10
81	5	9.2000	2	2	10	10	19
82	63683	6.9428	2	3	5	9	14
83	6462	5.5305	2	3	4	7	10
84	1494	3.3681	1	2	3	4	6
85	20066	6.3638	2	3	5	8	12
86	1923	3.7889	1	2	3	5	7
87	62959	6.2450	1	3	5	8	12
88	403808	5.2212	2	3	4	7	9
89	524106	6.0245	2	3	5	7	11
90	51271	4.2271	2	3	4	5	7
91	49	3.3061	1	2	3	4	5
92	13763	6.2465	2	3	5	8	12
93	1543	3.9942	1	2	3	5	7
94	12332	6.3027	2	3	5	8	12
95	1561	3.6887	1	2	3	5	7
96	64893	4.7277	2	3	4	6	8
97	31521	3.6879	1	2	3	5	7
98	18	4.6667	1	1	3	6	7
99	18166	3.2204	1	1	2	4	6
100	7230	2.2047	1	1	2	3	4
101	19700	4.4248	1	2	3	5	8
102	4970	2.7360	1	1	2	3	5
103	442	48.6041	9	12	29	64	112
104	33352	11.6423	3	6	10	15	22
105	29488	9.2812	4	5	7	11	17
106	3785	11.2201	5	7	9	13	20
107	90361	10.3492	5	7	9	12	17
108	5213	10.5580	3	5	8	13	20
109	61526	7.7320	4	5	6	9	13
110	54724	9.4413	2	5	8	11	18
111	7102	5.4816	2	4	5	7	8
112	60794	3.7592	1	1	3	5	8
113	49775	12.1191	4	6	9	15	24
114	8478	8.2536	2	4	7	10	16
115	14032	8.4152	1	4	7	11	16
116	308070	3.7287	1	1	3	5	8
117	3404	4.0523	1	1	2	5	9
118	6649	2.8117	1	1	1	3	6
119	1445	4.8374	1	1	3	6	12
120	36650	8.1194	1	2	5	10	18
121	163449	6.4387	2	3	5	8	12
122	80682	3.8317	1	2	3	5	7
123	40869	4.5742	1	1	3	6	11
124	134743	4.3708	1	2	3	6	8
125	74923	2.7862	1	1	2	4	5
126	5131	11.6936	3	6	9	14	22
127	680654	5.3354	2	3	4	7	10
128	11526	5.8044	3	4	5	7	9
129	4173	2.8447	1	1	1	3	7
130	89048	5.8037	2	3	5	7	10
131	26830	4.3785	1	3	4	6	7
132	152932	3.0474	1	1	2	4	6
133	7573	2.3956	1	1	2	3	4
134	32813	3.2987	1	2	3	4	6
135	7100	4.4668	1	2	3	5	9
136	1170	2.9120	1	1	2	4	6
138	191436	4.0071	1	2	3	5	8
139	77194	2.5069	1	1	2	3	5
140	76478	2.7136	1	1	2	3	5
141	85791	3.7068	1	2	3	5	7
142	42652	2.6766	1	1	2	3	5
143	185700	2.1667	1	1	2	3	4
144	78800	5.3171	1	2	4	7	11
145	6884	2.8117	1	1	2	4	6
146	11215	10.1815	5	7	9	12	17
147	2418	6.6208	3	5	6	8	10
148	134272	12.1101	5	7	10	14	22

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
149	17551	6.6488	4	5	6	8	10
150	20300	11.1450	4	7	9	14	20
151	4479	5.9272	2	3	5	8	10
152	4441	8.1743	3	5	7	10	14
153	1914	5.4713	3	4	5	7	8
154	29346	13.2615	4	7	10	16	25
155	6052	4.3354	1	2	3	6	8
156	2	28.0000	28	28	28	28	28
157	8196	5.4926	1	2	4	7	11
158	4393	2.6271	1	1	2	3	5
159	16421	5.0258	1	2	4	6	10
160	10974	2.7204	1	1	2	4	5
161	11483	4.1695	1	2	3	5	9
162	7018	1.9577	1	1	1	2	4
163	8	2.7500	1	1	3	3	3
164	4720	8.4019	4	5	7	10	15
165	1942	4.8553	2	3	5	6	8
166	3307	5.0889	2	3	4	6	9
167	2896	2.7099	1	2	2	3	5
168	1511	4.5963	1	2	3	6	9
169	802	2.4214	1	1	2	3	5
170	11287	11.1669	2	5	8	14	23
171	1125	4.7911	1	2	4	6	9
172	30485	6.9710	2	3	5	9	14
173	2492	3.8435	1	1	3	5	8
174	236408	4.8222	2	3	4	6	9
175	28026	2.9414	1	2	3	4	5
176	15607	5.2668	2	3	4	6	10
177	9489	4.5521	2	2	4	6	8
178	3568	3.1373	1	2	3	4	6
179	12177	6.0139	2	3	5	7	11
180	85083	5.3978	2	3	4	7	10
181	24320	3.4134	1	2	3	4	6
182	232501	4.3626	1	2	3	5	8
183	78432	2.9618	1	1	2	4	6
184	98	3.2449	1	2	2	4	5
185	4300	4.4963	1	2	3	6	9
186	2	4.5000	2	2	7	7	7
187	722	3.8130	1	2	3	5	8
188	74594	5.5723	1	2	4	7	11
189	11097	3.1388	1	1	2	4	6
190	69	6.0290	2	3	4	6	11
191	9367	14.0878	4	7	10	18	28
192	974	6.5842	2	4	6	8	11
193	5669	12.5490	5	7	10	15	23
194	755	6.7497	2	4	6	8	12
195	4869	9.9029	4	6	8	12	17
196	1190	5.6832	2	4	5	7	9
197	20225	8.7363	3	5	7	11	16
198	6079	4.4996	2	3	4	6	8
199	1724	9.6456	3	4	8	12	19
200	1071	10.7404	2	4	8	14	22
201	1465	13.8314	3	6	11	18	27
202	25595	6.5031	2	3	5	8	13
203	28958	6.6940	2	3	5	9	13
204	54818	5.8581	2	3	4	7	11
205	22519	6.2964	2	3	5	8	12
206	1778	3.8335	1	2	3	5	7
207	30768	5.1176	1	2	4	6	10
208	9616	2.8974	1	1	2	4	6
209	394168	5.1231	3	3	4	6	8
210	146423	6.8039	3	4	6	8	11
211	35938	4.9292	3	4	4	6	7
212	7	3.0000	2	2	2	3	4
213	8882	8.7299	2	4	7	11	17
216	5822	9.7583	2	4	7	12	19
217	17573	13.0833	3	5	9	16	28
218	21344	5.3594	2	3	4	6	10
219	19125	3.2444	1	2	3	4	5
220	2	2.5000	1	1	4	4	4

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
223	17434	2.5812	1	1	2	3	5
224	7953	2.0448	1	1	2	3	4
225	5575	4.7146	1	2	3	6	10
226	4985	6.2828	1	2	4	8	13
227	4416	2.6594	1	1	2	3	5
228	2437	3.5568	1	1	2	4	8
229	1080	2.3944	1	1	2	3	5
230	2102	5.1237	1	2	3	6	10
231	10618	4.8282	1	2	3	6	10
232	565	3.5894	1	1	2	4	9
233	4542	7.6797	2	3	5	9	16
234	2666	3.5709	1	2	3	4	7
235	5334	5.1245	1	2	4	6	10
236	43318	4.8912	2	3	4	6	9
237	1576	3.7386	1	2	3	5	7
238	7594	8.4664	3	4	6	10	16
239	51719	6.2172	2	3	5	8	12
240	11850	6.5754	2	3	5	8	13
241	2953	3.9401	1	2	3	5	7
242	2477	6.5268	2	3	5	8	12
243	84831	4.7022	1	3	4	6	9
244	11891	4.7802	1	2	4	6	9
245	4929	3.7206	1	2	3	4	7
246	1342	3.6461	1	2	3	4	7
247	15047	3.4443	1	1	3	4	7
248	9336	4.7321	1	2	4	6	9
249	10719	3.7768	1	1	3	5	8
250	3509	4.2485	1	2	3	5	8
251	2351	2.9872	1	1	3	4	5
252	1	2.0000	2	2	2	2	2
253	18878	4.6841	1	3	4	6	9
254	10341	3.2080	1	2	3	4	6
255	1	1.0000	1	1	1	1	1
256	5803	5.1260	1	2	4	6	10
257	16795	2.8263	1	2	2	3	5
258	15710	2.0006	1	1	2	2	3
259	3717	2.7896	1	1	1	3	6
260	4780	1.4749	1	1	1	2	2
261	1730	2.1624	1	1	1	2	4
262	673	3.8098	1	1	3	5	7
263	27219	11.5858	3	5	8	14	23
264	4261	6.9681	2	3	5	8	14
265	3868	6.6099	1	2	4	8	14
266	2527	3.3174	1	1	2	4	7
267	255	5.2353	1	1	3	6	12
268	896	3.6953	1	1	2	4	8
269	8856	8.2516	2	3	6	10	16
270	2734	3.2579	1	1	2	4	7
271	21090	7.1019	2	4	6	8	13
272	5465	6.3420	2	3	5	8	12
273	1341	4.2118	1	2	3	5	8
274	2368	6.9548	2	3	5	9	14
275	224	3.3125	1	1	2	4	7
276	1076	4.6515	1	2	4	6	9
277	83707	5.7178	2	3	5	7	10
278	28524	4.3359	2	3	4	5	7
279	4	4.0000	2	2	4	5	5
280	15047	4.1980	1	2	3	5	8
281	6682	3.0805	1	1	3	4	6
283	5322	4.5569	1	2	3	6	9
284	1852	3.1960	1	1	2	4	6
285	6125	10.4263	3	5	8	13	20
286	1995	6.2000	2	3	5	7	11
287	5974	10.5387	3	5	8	13	20
288	2252	5.7234	2	3	4	6	9
289	4326	3.1248	1	1	2	3	7
290	8214	2.4329	1	1	2	2	4
291	57	1.6316	1	1	1	2	2
292	4945	9.9610	2	4	7	13	21
293	321	4.9346	1	2	4	7	10

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
294	83924	4.7128	1	2	4	6	9
295	3464	3.8467	1	2	3	5	7
296	232274	5.2398	2	3	4	6	10
297	40842	3.4744	1	2	3	4	6
298	106	3.1887	1	2	2	4	6
299	1052	5.5542	1	2	4	6	11
300	15582	6.1317	2	3	5	8	12
301	3101	3.7004	1	2	3	5	7
302	7525	9.4141	4	5	7	11	16
303	19405	8.4850	4	5	7	10	15
304	11967	8.8979	2	4	7	11	18
305	2852	3.8443	1	2	3	5	7
306	7925	5.4829	1	2	3	7	12
307	2226	2.2668	1	1	2	3	4
308	7673	6.3836	1	2	4	8	14
309	3947	2.4880	1	1	2	3	5
310	23701	4.3591	1	2	3	5	9
311	8200	1.8902	1	1	1	2	3
312	1570	4.5166	1	1	3	6	10
313	633	2.1153	1	1	1	3	4
314	2	1.0000	1	1	1	1	1
315	28524	7.4721	1	1	5	10	17
316	96405	6.6791	2	3	5	8	13
317	1230	3.2114	1	1	2	3	6
318	5544	5.9975	1	3	4	7	12
319	460	2.8630	1	1	2	4	6
320	181708	5.3834	2	3	4	7	10
321	28174	3.8452	1	2	3	5	7
322	69	4.0580	1	2	3	5	7
323	16353	3.2183	1	1	2	4	7
324	7365	1.8789	1	1	1	2	3
325	7788	3.8947	1	2	3	5	7
326	2414	2.6582	1	1	2	3	5
327	7	9.2857	1	1	2	4	13
328	718	3.9053	1	1	3	5	8
329	104	2.0481	1	1	1	3	4
331	43233	5.5300	1	2	4	7	11
332	4795	3.2715	1	1	2	4	7
333	296	5.0507	1	2	3	6	10
334	12132	4.8938	2	3	4	6	8
335	11393	3.4104	2	3	3	4	5
336	40525	3.5229	1	2	3	4	7
337	30540	2.1759	1	1	2	3	3
338	1641	5.2956	1	2	3	7	12
339	1503	4.5269	1	1	3	6	10
340	1	1.0000	1	1	1	1	1
341	3836	3.2018	1	1	2	3	7
342	775	3.1174	1	2	2	4	6
344	3934	2.2567	1	1	1	2	4
345	1272	3.7673	1	1	2	5	8
346	4622	5.8090	1	3	4	7	11
347	396	3.3712	1	1	2	4	7
348	3105	4.2029	1	2	3	5	8
349	589	2.6027	1	1	2	3	5
350	6157	4.3937	2	2	4	5	8
352	646	3.8498	1	2	3	5	8
353	2631	6.7081	3	3	5	8	13
354	8209	5.8725	3	3	4	7	10
355	5698	3.3243	2	3	3	4	5
356	25961	2.4179	1	1	2	3	4
357	5767	8.4947	3	4	7	10	16
358	21628	4.3926	2	3	3	5	7
359	29103	2.8141	2	2	3	3	4
360	16133	2.9634	1	2	2	3	5
361	420	3.4524	1	1	2	4	7
362	1	1.0000	1	1	1	1	1
363	3079	3.4784	1	2	2	3	7
364	1611	3.5847	1	1	2	5	7
365	1917	7.3005	2	3	5	9	16
366	4226	6.7283	1	3	5	8	14

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
367	472	3.1462	1	1	2	4	7
368	2861	6.7113	2	3	5	8	13
369	2832	3.1963	1	1	2	4	6
370	1141	5.7160	3	3	4	5	9
371	1174	3.6567	2	3	3	4	5
372	916	3.4509	2	2	2	3	5
373	3916	2.2829	1	2	2	2	3
374	125	3.4880	2	2	2	3	5
375	6	2.6667	2	2	2	3	3
376	254	3.4803	1	2	2	4	7
377	53	3.8679	1	1	2	5	8
378	151	2.3444	1	1	2	3	4
379	355	3.1127	1	1	2	3	7
380	74	2.1622	1	1	2	2	4
381	176	1.9545	1	1	1	2	3
382	39	1.3077	1	1	1	1	2
383	1545	3.8913	1	1	3	5	8
384	123	2.3415	1	1	1	2	4
389	8	5.8750	3	3	4	8	10
390	19	3.7368	1	1	3	5	7
392	2508	9.4769	3	4	7	12	19
393	1	8.0000	8	8	8	8	8
394	1724	6.6810	1	2	4	8	15
395	80464	4.5303	1	2	3	6	9
396	17	3.7059	1	1	2	5	6
397	18071	5.2277	1	2	4	7	10
398	18051	5.9638	2	3	5	7	11
399	1614	3.5520	1	2	3	4	7
400	6845	9.0488	1	3	6	12	20
401	5827	11.1903	2	5	8	14	23
402	1483	3.9400	1	1	3	5	8
403	32911	8.0630	2	3	6	10	17
404	4457	4.2257	1	2	3	6	9
406	2546	10.2859	3	4	7	13	21
407	695	4.4086	1	2	4	6	8
408	2247	7.7036	1	2	5	10	18
409	3281	5.9113	2	3	4	6	11
410	40862	3.7202	1	2	3	5	6
411	13	2.3077	1	1	2	4	4
412	29	2.7241	1	1	2	3	6
413	6515	7.2391	2	3	6	9	14
414	746	4.0804	1	2	3	5	8
415	39856	14.1713	4	6	11	18	28
416	195783	7.3483	2	4	6	9	14
417	32	6.1875	1	2	4	7	13
418	22097	6.1239	2	3	5	7	11
419	15859	4.8212	2	2	4	6	9
420	3091	3.5642	1	2	3	4	6
421	12242	3.8638	1	2	3	5	7
422	96	5.2708	1	2	2	5	7
423	8073	8.1416	2	3	6	10	17
424	1354	13.3936	2	5	9	16	28
425	15006	4.0716	1	2	3	5	8
426	4313	4.5613	1	2	3	6	9
427	1660	5.0283	1	2	3	6	10
428	839	7.1025	1	2	4	8	15
429	30016	6.4824	2	3	5	8	12
430	58011	8.2066	2	3	6	10	16
431	295	6.5864	2	3	5	8	13
432	389	4.7506	1	2	3	5	9
433	5781	3.0073	1	1	2	4	6
434	21835	5.0844	1	2	4	6	9
435	14486	4.2925	1	2	4	5	8
436	3499	12.8337	4	7	11	17	25
437	9750	8.9544	3	5	8	11	15
439	1287	8.1756	1	3	5	10	17
440	5017	8.8433	2	3	6	10	19
441	579	3.2383	1	1	2	4	7
442	15896	8.2292	1	3	6	10	17
443	3547	3.3941	1	1	2	4	7

TABLE 7B.—MEDICARE PROSPECTIVE PAYMENT SYSTEM, SELECTED PERCENTILE LENGTHS OF STAY—Continued

[FY99 MEDPAR Update 12/99 Grouper V18.0]

DRG	Number discharges	Arithmetic mean LOS	10th percentile	25th percentile	50th percentile	75th percentile	90th percentile
444	5150	4.2252	1	2	3	5	8
445	2223	3.0031	1	1	2	4	5
447	4854	2.5117	1	1	2	3	5
448	1	4.0000	4	4	4	4	4
449	26543	3.6722	1	1	3	4	7
450	6363	2.0525	1	1	1	2	4
451	1	1.0000	1	1	1	1	1
452	21656	4.9536	1	2	3	6	10
453	4464	2.8156	1	1	2	3	5
454	4930	4.5554	1	2	3	6	9
455	1070	2.6262	1	1	2	3	5
461	3357	4.5594	1	1	2	5	11
462	12630	11.5264	4	6	9	15	21
463	18895	4.2653	1	2	3	5	8
464	5455	3.0761	1	1	2	4	6
465	227	3.3612	1	1	2	3	7
466	1719	3.8674	1	1	2	4	8
467	1301	4.0638	1	1	2	4	7
468	58391	12.9318	3	6	10	17	26
471	11423	5.7339	3	4	5	6	9
473	7615	12.8411	2	3	7	19	32
475	109112	11.1767	2	5	9	15	22
476	4448	11.6369	2	5	10	15	21
477	25690	8.1425	1	3	6	10	17
478	111191	7.3157	1	3	5	9	15
479	22375	3.6220	1	2	3	5	7
480	460	19.1848	7	9	14	23	38
481	229	27.1485	16	19	23	32	43
482	6119	12.7756	4	7	10	15	24
483	47190	38.8624	14	21	32	49	70
484	323	13.3065	2	5	10	18	28
485	2932	9.3905	4	5	7	11	17
486	2012	12.1511	1	5	9	16	24
487	3491	7.5408	1	3	6	10	15
488	767	16.9465	4	7	12	21	34
489	14253	8.5597	2	3	6	10	18
490	5283	5.1333	1	2	4	6	10
491	11332	3.4896	2	2	3	4	6
492	2667	16.1234	4	5	9	26	34
493	54030	5.7170	1	3	5	7	11
494	27254	2.4838	1	1	2	3	5
495	145	20.2552	6	8	12	18	33
496	1270	9.9843	4	5	7	12	18
497	22593	6.2173	2	3	5	7	11
498	19133	3.4179	1	2	3	4	6
499	30738	4.7687	1	2	4	6	9
500	42090	2.6897	1	1	2	3	5
501	1943	10.5713	4	5	8	13	20
502	612	5.9379	2	3	5	7	10
503	5563	3.9730	1	2	3	5	7
504	122	30.0984	10	15	25	40	60
505	153	4.7190	1	1	2	6	12
506	962	17.6258	4	8	14	24	37
507	280	9.1857	2	4	7	13	18
508	637	7.1350	2	3	5	9	15
509	165	6.1333	1	2	4	8	12
510	1653	7.8506	2	3	5	9	17
511	594	4.4646	1	1	3	6	10
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TABLE 8A.—STATEWIDE AVERAGE OPERATING COST-TO-CHARGE RATIOS FOR URBAN AND RURAL HOSPITALS (CASE WEIGHTED) MARCH 2000

State	Urban	Rural
ALABAMA	0.401	0.355
ALASKA	0.469	0.722
ARIZONA	0.373	0.516
ARKANSAS	0.478	0.454
CALIFORNIA	0.344	0.443
COLORADO	0.427	0.560
CONNECTICUT	0.495	0.503
DELAWARE	0.507	0.449
DISTRICT OF COLUMBIA	0.521	.....
FLORIDA	0.363	0.380
GEORGIA	0.474	0.486
HAWAII	0.409	0.554
IDAHO	0.549	0.570
ILLINOIS	0.427	0.515
INDIANA	0.532	0.543
IOWA	0.493	0.623
KANSAS	0.443	0.656
KENTUCKY	0.477	0.493
LOUISIANA	0.406	0.495
MAINE	0.597	0.554
MARYLAND	0.759	0.821
MASSACHUSETTS	0.525	0.537
MICHIGAN	0.558	0.597
MINNESOTA	0.510	0.590
MISSISSIPPI	0.455	0.455
MISSOURI	0.413	0.506
MONTANA	0.525	0.570
NEBRASKA	0.468	0.623
NEVADA	0.293	0.483
NEW HAMPSHIRE	0.543	0.583
NEW JERSEY	0.411	.....
NEW MEXICO	0.477	0.498
NEW YORK	0.529	0.610
NORTH CAROLINA	0.539	0.489
NORTH DAKOTA	0.622	0.660
OHIO	0.513	0.578
OKLAHOMA	0.422	0.509
OREGON	0.560	0.581
PENNSYLVANIA	0.396	0.517
PUERTO RICO	0.479	0.578
RHODE ISLAND	0.523	.....
SOUTH CAROLINA	0.456	0.452
SOUTH DAKOTA	0.537	0.600
TENNESSEE	0.441	0.482
TEXAS	0.406	0.511
UTAH	0.505	0.627
VERMONT	0.623	0.590
VIRGINA	0.467	0.500
WASHINGTON	0.577	0.652
WEST VIRGINIA	0.577	0.530
WISCONSIN	0.559	0.622
WYOMING	0.475	0.681

TABLE 8B.—STATEWIDE AVERAGE CAPITAL COST-TO-CHARGE RATIOS (CASE WEIGHTED) MARCH 2000

State	Ratio
ALABAMA	0.040
ALASKA	0.070
ARIZONA	0.041
ARKANSAS	0.050
CALIFORNIA	0.037
COLORADO	0.046
CONNECTICUT	0.036
DELAWARE	0.051
DISTRICT OF COLUMBIA	0.039
FLORIDA	0.045
GEORGIA	0.056
HAWAII	0.042
IDAHO	0.049
ILLINOIS	0.042
INDIANA	0.057
IOWA	0.056
KANSAS	0.054
KENTUCKY	0.046
LOUISIANA	0.050
MAINE	0.039
MARYLAND	0.013
MASSACHUSETTS	0.054
MICHIGAN	0.053
MINNESOTA	0.049
MISSISSIPPI	0.045
MISSOURI	0.046
MONTANA	0.050
NEBRASKA	0.054
NEVADA	0.030
NEW HAMPSHIRE	0.063
NEW JERSEY	0.037
NEW MEXICO	0.044
NEW YORK	0.051
NORTH CAROLINA	0.050
NORTH DAKOTA	0.074
OHIO	0.050
OKLAHOMA	0.048
OREGON	0.048
PENNSYLVANIA	0.040
PUERTO RICO	0.043
RHODE ISLAND	0.030
SOUTH CAROLINA	0.047
SOUTH DAKOTA	0.066
TENNESSEE	0.051
TEXAS	0.048
UTAH	0.049
VERMONT	0.051
VIRGINIA	0.058
WASHINGTON	0.064
WEST VIRGINIA	0.047
WISCONSIN	0.054
WYOMING	0.057

Appendix A—Regulatory Impact Analysis

I. Introduction

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless we certify that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all hospitals to be small entities.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. With the exception of hospitals located in certain New England counties, for purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 100 beds that is located outside of a Metropolitan Statistical Area (MSA) or New England County Metropolitan Area (NECMA). Section 601(g) of the Social Security Amendments of 1983 (Public Law 98–21) designated hospitals in certain New England counties as belonging to the adjacent NECMA. Thus, for purposes of the hospital inpatient prospective payment system, we classify these hospitals as urban hospitals.

It is clear that the changes being proposed in this document would affect both a substantial number of small rural hospitals as well as other classes of hospitals, and the effects on some may be significant. Therefore, the discussion below, in combination with the rest of this proposed rule, constitutes a combined regulatory impact analysis and regulatory flexibility analysis.

We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that the proposed rule will not have any negative impact on the rights, roles, and responsibilities of State, local, or tribal governments.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. This proposed rule does not mandate any requirements for State, local, or tribal governments.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

II. Objectives

The primary objective of the hospital inpatient prospective payment system is to create incentives for hospitals to operate efficiently and minimize unnecessary costs while at the same time ensuring that payments are sufficient to adequately compensate hospitals for their legitimate costs. In addition, we share national goals of preserving the Medicare Trust Fund.

We believe the proposed changes would further each of these goals while maintaining the financial viability of the hospital industry and ensuring access to high quality health care for Medicare beneficiaries. We expect that these proposed changes would ensure that the outcomes of this payment system are reasonable and equitable while avoiding or minimizing unintended adverse consequences.

III. Limitations of Our Analysis

As has been the case in our previously published regulatory impact analyses, the following quantitative analysis presents the projected effects of our proposed policy changes, as well as statutory changes effective for FY 2001, on various hospital groups. We estimate the effects of individual policy changes by estimating payments per case while holding all other payment policies constant. We use the best data available, but we do not attempt to predict behavioral responses to our policy changes, and we do

not make adjustments for future changes in such variables as admissions, lengths of stay, or case-mix. As we have done in previous proposed rules, we are soliciting comments and information about the anticipated effects of these changes on hospitals and our methodology for estimating them.

IV. Hospitals Included In and Excluded From the Prospective Payment System

The prospective payment systems for hospital inpatient operating and capital-related costs encompass nearly all general, short-term, acute care hospitals that participate in the Medicare program. There were 44 Indian Health Service hospitals in our database, which we excluded from the analysis due to the special characteristics of the prospective payment method for these hospitals. Among other short-term, acute care hospitals, only the 50 such hospitals in Maryland remain excluded from the prospective payment system under the waiver at section 1814(b)(3) of the Act. Thus, as of February 2000, we have included 4,836 hospitals in our analysis. This represents about 80 percent of all Medicare-participating hospitals. The majority of this impact analysis focuses on this set of hospitals.

The remaining 20 percent are specialty hospitals that are excluded from the prospective payment system and continue to be paid on the basis of their reasonable costs (subject to a rate-of-increase ceiling on their inpatient operating costs per discharge). These hospitals include psychiatric, rehabilitation, long-term care, children's, and cancer hospitals. The impacts of our final policy changes on these hospitals are discussed below.

V. Impact on Excluded Hospitals and Units

As of February 2000, there were 1,081 specialty hospitals excluded from the prospective payment system and instead paid on a reasonable cost basis subject to the rate-of-increase ceiling under § 413.40. Broken down by specialty, there were 549 psychiatric, 194 rehabilitation, 238 long-term care, 73 childrens', 17 Christian Science Sanatoria, and 10 cancer hospitals. In addition, there were 1,470 psychiatric units and 910 rehabilitation units in hospitals otherwise subject to the prospective payment system. These excluded units are also paid in accordance with § 413.40. Under § 413.40(a)(2)(i)(A), the rate-of-increase ceiling is not applicable to the 36 specialty hospitals and units in Maryland that are paid in accordance with the waiver at section 1814(b)(3) of the Act.

As required by section 1886(b)(3)(B) of the Act, the update factor applicable to the rate-of-increase limit for excluded hospitals and units for FY 2001 would be between 0 and 3.1 percent, depending on the hospital's or unit's costs in relation to its limit for the most recent cost reporting period for which information is available.

The impact on excluded hospitals and units of the update in the rate-of-increase limit depends on the cumulative cost increases experienced by each excluded hospital or unit since its applicable base period. For excluded hospitals and units that have maintained their cost increases at a level below the percentage increases in the rate-of-increase limits since their base period, the major effect will be on the level of incentive payments these hospitals and units receive. Conversely, for excluded hospitals and units with per-case cost increases above the cumulative update in their rate-of-increase limits, the major effect will be the amount of excess costs that would not be reimbursed.

We note that, under § 413.40(d)(3), an excluded hospital or unit whose costs exceed 110 percent of its rate-of-increase limit receives its rate-of-increase limit plus 50 percent of the difference between its reasonable costs and 110 percent of the limit, not to exceed 110 percent of its limit. In addition, under the various provisions set forth in § 413.40, certain excluded hospitals and units can obtain payment adjustments for justifiable increases in operating costs that exceed the limit. At the same time, however, by generally limiting payment increases, we continue to provide an incentive for excluded hospitals and units to restrain the growth in their spending for patient services.

VI. Graduate Medical Education Impact of National Average Per Resident Amount (PRA)

As discussed in section IV.G. of the preamble, this proposed rule would implement statutory provisions enacted by section 311 of Public Law 106–113 that establish a methodology for the use of a national average PRA in computing direct graduate medical education (GME) payments for cost reporting periods beginning on or after October 1, 2000 and on or before September 30, 2005. The methodology would establish a ''floor'' and ''ceiling'' based on a locality-adjusted, updated national average PRA. Under section 1886(h)(2)(D)(iii) of the Act, as added by section 311(a) of Public Law 106–113, the PRA for a hospital for the cost reporting period beginning during FY 2001 cannot be below 70 percent of the locality-adjusted, updated national average PRA. Thus, if a hospital's PRA for the cost reporting period beginning during FY 2001 would otherwise be below the floor, the hospital's PRA for that cost reporting period would be equal to 70 percent of the locality-adjusted, national average PRA. Under section 1886(h)(2)(D)(iv) of the Act, as added by section 311(a) of Public Law 106–113, if a hospital's PRA exceeds 140 percent of the locality-adjusted, updated national average PRA, the hospital's PRA would be frozen (for FYs 2001 and 2002) or subject to a 2-percent reduction to the otherwise applicable update (for FYs 2003 through 2005). See section IV.G. of the preamble for a fuller explanation of this policy.

For purposes of the proposed rule, we have calculated an estimated impact of this proposed policy on teaching hospitals' PRAs for FY 2001 making assumptions about update factors and geographic adjustment factors (GAF) for each hospital. Generally, utilizing FY 1997 data, we calculated a floor and a ceiling and estimated the impact on hospitals. This impact was then inflated to FY 2001 to estimate the total impact on the Medicare program for FY 2001. The estimated numbers for this impact should not be used by hospitals in calculating their own individual PRAs; hospitals must use the methodology stated in section IV.G. of this proposed rule to revise (if appropriate) their individual PRAs.

In calculating this impact, we utilized Medicare cost report data for all cost reports ending in FY 1997. We excluded hospitals that file manual cost reports because we did not have access to their Medicare utilization data. We also excluded all teaching hospitals in Maryland because these hospitals are paid under a Medicare waiver. For those hospitals that had two cost reporting periods ending in FY 1997, we used the later of the two periods. A total of 1,231 teaching hospitals were included in this analysis.

Utilizing the proposed FY 1997 weighted average PRA of $68,487, we calculated a FY 1997 70-percent floor of $47,941 and a FY 1997 140-percent ceiling of $95,882. We then estimated that, for cost reporting periods ending in FY 1997, 339 hospitals had PRAs that were below $47,941 (27.5 percent of 1,231 hospitals), and 180 hospitals had PRAs above $95,882 (14.6 percent of 1,231 hospitals). Thus, for example, to illustrate the extremes in impact for a hospital with PRAs below the floor, Hospital A had a FY 1997 primary care PRA of $22,000 and a non-primary care PRA of $20,000. When these PRAs are replaced by a single PRA of $47,941, the hospital gains over 110 percent in payments per resident. For a hospital with PRAs above the ceiling, Hospital B had a FY 1997 primary care PRA of $150,000 and a non-primary care PRA of $148,000. When these PRAs are frozen and not updated for inflation in FY 2001, the percentage loss in payments per resident that year would be equal to the CPI–U percentage that would otherwise have been used to update the PRA.

For the 339 hospitals that had PRAs below the FY 1997 $47,941 floor, we estimated that the total cost to the Medicare program for FY 2001 of applying the floor would be $33.3 million. For the 180 hospitals that had PRAs above the FY 1997 $95,882 ceiling, we estimated that the total savings to the Medicare program for FY 2001 would be $18.7 million. Subtracting the estimated savings of $18.7 million from the estimated costs of $33.3 million yields an estimated total net cost to the Medicare program for FY 2001 of $14.6 million.

VII. Quantitative Impact Analysis of the Proposed Policy Changes Under the Prospective Payment System for Operating Costs

A. Basis and Methodology of Estimates

In this proposed rule, we are announcing policy changes and payment rate updates for the prospective payment systems for operating and capital-related costs. We estimate the total impact of these changes for FY 2001 payments compared to FY 2000 payments to be approximately a $1.3 billion increase. We have prepared separate impact analyses of the proposed changes to each system. This section deals with changes to the operating prospective payment system.

The data used in developing the quantitative analyses presented below are

taken from the FY 1999 MedPAR file and the most current provider-specific file that is used for payment purposes. Although the analyses of the changes to the operating prospective payment system do not incorporate cost data, the most recently available hospital cost report data were used to categorize hospitals. Our analysis has several qualifications. First, we do not make adjustments for behavioral changes that hospitals may adopt in response to these proposed policy changes. Second, due to the interdependent nature of the prospective payment system, it is very difficult to precisely quantify the impact associated with each proposed change. Third, we draw upon various sources for the data used to categorize hospitals in the tables. In some cases, particularly the number of beds, there is a fair degree of variation in the data from different sources. We have attempted to construct these variables with the best available source overall. For individual hospitals, however, some miscategorizations are possible.

Using cases in the FY 1999 MedPAR file, we simulated payments under the operating prospective payment system given various combinations of payment parameters. Any short-term, acute care hospitals not paid under the general prospective payment systems (Indian Health Service hospitals and hospitals in Maryland) are excluded from the simulations. Payments under the capital prospective payment system, or payments for costs other than inpatient operating costs, are not analyzed here. Estimated payment impacts of proposed FY 2001 changes to the capital prospective payment system are discussed in section IX of this Appendix.

The proposed changes discussed separately below are the following:

- The effects of the annual reclassification of diagnoses and procedures and the recalibration of the diagnosis-related group (DRG) relative weights required by section 1886(d)(4)(C) of the Act.
- The effects of changes in hospitals' wage index values reflecting the wage index update (FY 1997 data).
- The effects of our proposal to remove from the wage index the costs and hours associated with teaching physicians paid under Medicare Part A, residents, and certified registered nurse anesthetists (CRNAs) during the second year of a 5-year phase-out, by calculating a wage index based on 40 percent of hospitals' average hourly wages after removing these costs and hours, and 60 percent of hospitals' average hourly wages with these costs included.
- The effects of geographic reclassifications by the Medicare Geographic Classification Review Board (MGCRB) that will be effective in FY 2001.
- The total change in payments based on FY 2001 policies relative to payments based on FY 2000 policies.

To illustrate the impacts of the FY 2001 proposed changes, our analysis begins with a FY 2000 baseline simulation model using: The FY 2000 DRG GROUPER (version 17.0); the FY 2000 wage index; and no MGCRB reclassifications. Outlier payments are set a 5.1 percent of total DRG plus outlier payments.

Each proposed and statutory policy change is then added incrementally to this baseline model, finally arriving at an FY 2001 model incorporating all of the changes. This allows us to isolate the effects of each change.

Our final comparison illustrates the percent change in payments per case from FY 2000 to FY 2001. Five factors have significant impacts here. The first is the update to the standardized amounts. In accordance with section 1886(d)(3)(A)(iv) of the Act, we are proposing to update the large urban and the other areas average standardized amounts for FY 2001 using the most recently forecasted hospital market basket increase for FY 2001 of 3.1 percent minus 1.1 percentage points (for an update of 2.0 percent).

Under section 1886(b)(3) of the Act, as amended by section 406 of Public Law 106–113, the updates to the average standardized amounts and the hospital-specific amounts for sole community hospitals (SCHs) will be equal to the full market basket increase for FY 2001. Consequently, the update factor used for SCHs in this impact analysis is 3.1 percent. Under section 1886(b)(3)(D) of the Act, the update factor for the hospital-specific amounts for MDHs is equal to the market basket increase of 3.1 percent minus 1.1 percentage points (for an update of 2.0 percent).

A second significant factor that impacts changes in hospitals' payments per case from FY 2000 to FY 2001 is a change in MGCRB reclassification status from one year to the next. That is, hospitals reclassified in FY 2000 that are no longer reclassified in FY 2001 may have a negative payment impact going from FY 2000 to FY 2001; conversely, hospitals not reclassified in FY 2000 that are reclassified in FY 2001 may have a positive impact. In some cases, these impacts can be quite substantial, so if a relatively small number of hospitals in a particular category lose their reclassification status, the percentage change in payments for the category may be below the national mean.

A third significant factor is that we currently estimate that actual outlier payments during FY 2000 will be 6.1 percent of actual total DRG payments. When the FY 2000 final rule was published, we projected FY 2000 outlier payments would be 5.1 percent of total DRG plus outlier payments; the standardized amounts were offset correspondingly. The effects of the higher than expected outlier payments during FY 2000 (as discussed in the Addendum to this proposed rule) are reflected in the analyses below comparing our current estimates of FY 2000 payments per case to estimated FY 2001 payments per case.

Fourth, section 111 of Public Law 106–113 revised section 1886(d)(5)(B)(ii) of the Act so that the IME adjustment changes from FY 2000 to FY 2001 from approximately a 6.25-percent increase for every 100-percent increase in a hospital's resident-to-bed ratio during FY 2000 to approximately a 6.2-percent increase in FY 2001. Similarly, section 112 of Public Law 106–113 revised section 1886(d)(5)(F)(ix) of the Act so that the DSH adjustment for FY 2001 is reduced by 3-percent from what would otherwise have been paid (this is the same percentage reduction that was applied in FY 2000).

Finally, section 405 of Public Law 106–113 provided that certain SCHs may elect to receive payment on the basis of their costs per case during their cost reporting period that began during 1996. To be eligible, a SCH must have received for its cost reporting period beginning during 1999, payment on the basis of its hospital-specific rate. For FY 2001, eligible SCHs that elect rebasing receive a hospital-specific rate comprised of 75-percent of the higher of their FY 1982 or FY 1987 hospital-specific rate, and 25-percent of their FY 1996 hospital-specific rate.

Table I demonstrates the results of our analysis. The table categorizes hospitals by various geographic and special payment consideration groups to illustrate the varying impacts on different types of hospitals. The top row of the table shows the overall impact on the 4,836 hospitals included in the analysis. This number is 86 fewer hospitals than were included in the impact analysis in the FY 2000 final rule (64 FR 41624).

The next four rows of Table I contain hospitals categorized according to their geographic location (all urban, which is further divided into large urban and other urban, or rural). There are 2,710 hospitals located in urban areas (MSAs or NECMAs) included in our analysis. Among these, there are 1,545 hospitals located in large urban areas (populations over 1 million), and 1,165 hospitals in other urban areas (populations of 1 million or fewer). In addition, there are 2,126 hospitals in rural areas. The next two groupings are by bed-size categories, shown separately for urban and rural hospitals. The final groupings by geographic location are by census divisions, also shown separately for urban and rural hospitals.

The second part of Table I shows hospital groups based on hospitals' FY 2001 payment classifications, including any reclassifications under section 1886(d)(10) of the Act. For example, the rows labeled urban, large urban, other urban, and rural show that the number of hospitals paid based on these categorizations (after consideration of geographic reclassifications) are 2,786, 1,617, 1,169, and 2,050, respectively.

The next three groupings examine the impacts of the proposed changes on hospitals grouped by whether or not they have residency programs (teaching hospitals that receive an IME adjustment) or receive DSH payments, or some combination of these two adjustments. There are 3,730 nonteaching hospitals in our analysis, 870 teaching hospitals with fewer than 100 residents, and 236 teaching hospitals with 100 or more residents.

In the DSH categories, hospitals are grouped according to their DSH payment status, and whether they are considered urban or rural after MGCRB reclassifications. Hospitals in the rural DSH categories, therefore, represent hospitals that were not reclassified for purposes of the standardized amount or for purposes of the DSH adjustment. (They may, however, have been reclassified for purposes of the wage index.) The next category groups hospitals considered urban after geographic reclassification, in terms of whether they receive the IME adjustment, the DSH adjustment, both, or neither.

The next five rows examine the impacts of the proposed changes on rural hospitals by special payment groups (SCHs, rural referral centers (RRCs), and MDHs), as well as rural hospitals not receiving a special payment designation. The RRCs (150), SCHs (660), MDHs (352), and SCH and RRCs (58) shown here were not reclassified for purposes of the standardized amount. There are 20 RRCs, 1 MDH, 5 SCHs and 2 SCH and RRCs that will be reclassified as urban for the standardized amount in FY 2001 and, therefore, are not included in these rows.

The next two groupings are based on type of ownership and the hospital's Medicare utilization expressed as a percent of total patient days. These data are taken primarily from the FY 1998 Medicare cost report files, if available (otherwise FY 1997 data are used). Data needed to determine ownership status or Medicare utilization percentages were unavailable for 34 and 35 hospitals, respectively. For the most part, these are new hospitals.

The next series of groupings concern the geographic reclassification status of hospitals. The first three groupings display hospitals that were reclassified by the MGCRB for both FY 2000 and FY 2001, or for only one of those 2 years, by urban and rural status. The next rows illustrate the overall number of FY 2001 reclassifications, as well as the numbers of reclassified hospitals grouped by urban and rural location. The final row in Table I contains hospitals located in rural counties but deemed to be urban under section 1886(d)(8)(B) of the Act.

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TABLE I - IMPACT ANALYSIS OF CHANGES FOR FY 2001
OPERATING PROSPECTIVE PAYMENT SYSTEM
(PERCENT CHANGES IN PAYMENTS PER CASE)

	NUM. OF HOSPS.[1] (0)	DRG RE-CALIB.[2] (1)	NEW WAGE DATA[3] (2)	PHASE-OUT OF GME AND CRNA COSTS[4] (3)	DRG & WI CHANGES[5] (4)	MGCRB RECLASSI-FICATION[6] (5)	ALL FY 2001 CHANGES[7] (6)
(BY GEOGRAPHIC LOCATION)							
ALL HOSPITALS	4,836	0.0	0.3	0.0	0.0	0.0	1.2
URBAN HOSPITALS	2,710	0.0	0.1	0.0	-0.1	-0.4	0.9
LARGE URBAN	1,545	0.0	-0.3	0.1	-0.5	-0.5	0.6
OTHER URBAN	1,165	0.0	0.6	0.0	0.4	-0.3	1.4
RURAL HOSPITALS	2,126	0.1	1.4	0.1	1.3	2.4	2.8
BED SIZE (URBAN)							
0- 99 BEDS	687	0.1	0.2	0.1	0.3	-0.4	1.4
100-199 BEDS	928	0.1	0.1	0.1	0.0	-0.5	1.0
200-299 BEDS	543	0.0	0.0	0.1	-0.2	-0.4	0.8
300-499 BEDS	410	-0.1	0.1	0.1	-0.2	-0.4	0.8
500 OR MORE BEDS	142	-0.1	0.1	0.0	-0.3	-0.4	1.0
BED SIZE (RURAL)							
0- 49 BEDS	1,208	0.2	1.4	0.1	1.3	0.3	3.6
50- 99 BEDS	549	0.2	1.4	0.1	1.2	0.8	3.0
100-149 BEDS	217	0.2	1.4	0.1	1.2	3.4	2.5

	NUM. OF HOSPS.[1] (0)	DRG RE-CALIB.[2] (1)	NEW WAGE DATA[3] (2)	PHASE-OUT OF GME AND CRNA COSTS[4] (3)	DRG & WI CHANGES[5] (4)	MGCRB RECLASSI-FICATION[6] (5)	ALL FY 2001 CHANGES[7] (6)
150-199 BEDS	85	0.1	1.5	0.1	1.3	4.9	2.7
200 OR MORE BEDS	67	0.1	1.4	0.1	1.2	4.1	2.2
URBAN BY CENSUS DIVISION							
NEW ENGLAND	146	0.0	-0.2	0.1	0.3	-0.2	1.2
MIDDLE ATLANTIC	412	0.0	-0.3	-0.1	-0.7	-0.5	0.0
SOUTH ATLANTIC	400	0.0	0.2	0.1	0.1	-0.5	1.1
EAST NORTH CENTRAL	457	0.0	0.1	0.0	-0.2	-0.2	1.0
EAST SOUTH CENTRAL	156	0.0	-0.6	0.0	-0.9	-0.4	0.2
WEST NORTH CENTRAL	185	-0.1	0.6	0.0	0.2	-0.4	1.5
WEST SOUTH CENTRAL	343	0.0	0.8	0.1	0.5	-0.5	1.6
MOUNTAIN	132	-0.1	0.2	0.1	-0.2	-0.4	1.3
PACIFIC	434	0.0	0.2	0.1	0.0	-0.4	1.0
PUERTO RICO	45	0.1	-0.7	0.0	-0.8	-0.5	0.9
RURAL BY CENSUS DIVISION							
NEW ENGLAND	52	0.1	0.4	0.0	0.1	2.6	2.6
MIDDLE ATLANTIC	79	0.1	0.4	0.0	0.2	2.8	2.6
SOUTH ATLANTIC	276	0.2	1.9	0.1	1.8	2.8	3.0
EAST NORTH CENTRAL	280	0.1	1.5	0.1	1.3	2.0	3.0

	NUM. OF HOSPS.[1] (0)	DRG RE-CALIB.[2] (1)	NEW WAGE DATA[3] (2)	PHASE-OUT OF GME AND CRNA COSTS[4] (3)	DRG & WI CHANGES[5] (4)	MGCRB RECLASSI-FICATION[6] (5)	ALL FY 2001 CHANGES[7] (6)
EAST SOUTH CENTRAL	265	0.2	1.4	0.1	1.3	2.2	2.4
WEST NORTH CENTRAL	491	0.1	1.3	0.0	1.0	2.5	3.1
WEST SOUTH CENTRAL	337	0.2	1.7	0.1	1.6	2.8	2.7
MOUNTAIN	201	0.1	1.0	0.0	0.8	1.7	3.1
PACIFIC	140	0.2	1.4	0.1	1.3	1.7	2.8
PUERTO RICO	5	0.2	0.1	0.1	0.2	-0.6	0.1
(BY PAYMENT CATEGORIES)							
URBAN HOSPITALS	2,786	0.0	0.1	0.0	-0.1	-0.3	0.9
LARGE URBAN	1,617	0.0	-0.3	0.1	-0.5	-0.4	0.6
OTHER URBAN	1,169	0.0	0.6	0.0	0.5	-0.3	1.4
RURAL HOSPITALS	2,050	0.2	1.4	0.1	1.3	2.1	2.8
TEACHING STATUS							
NON-TEACHING	3,730	0.1	0.5	0.1	0.4	0.3	1.4
LESS THAN 100 RESIDENTS	870	0.0	0.2	0.0	0.0	-0.2	1.1
100+ RESIDENTS	236	-0.1	-0.2	0.0	-0.5	-0.4	0.8
DISPROPORTIONATE SHARE HOSPITALS (DSH)							
NON-DSH	3,025	0.0	0.2	0.0	0.1	0.3	1.1

	NUM. OF HOSPS.[1] (0)	DRG RE-CALIB.[2] (1)	NEW WAGE DATA[3] (2)	PHASE-OUT OF GME AND CRNA COSTS[4] (3)	DRG & WI CHANGES[5] (4)	MGCRB RECLASSI-FICATION[6] (5)	ALL FY 2001 CHANGES[7] (6)
URBAN DSH							
100 BEDS OR MORE	1,377	0.0	0.2	0.0	-0.1	-0.4	1.1
FEWER THAN 100 BEDS	76	0.1	0.5	0.1	0.4	-0.5	1.6
RURAL DSH							
SOLE COMMUNITY (SCH)	153	0.2	1.6	0.1	1.5	0.6	4.7
REFERRAL CENTERS (RRC)	54	0.2	1.8	0.1	1.7	3.9	1.5
OTHER RURAL DSH HOSPITALS							
100 BEDS OR MORE	48	0.2	2.0	0.1	1.9	1.8	2.6
FEWER THAN 100 BEDS	103	0.2	2.0	0.1	2.0	0.4	3.7
URBAN TEACHING AND DSH							
BOTH TEACHING AND DSH	716	-0.1	0.1	0.0	-0.2	-0.4	1.1
TEACHING AND NO DSH	325	-0.1	-0.1	0.0	-0.4	-0.3	0.6
NO TEACHING AND DSH	737	0.1	0.3	0.1	0.2	-0.2	1.1
NO TEACHING AND NO DSH	1,008	0.1	-0.1	0.1	-0.1	-0.3	0.6
RURAL HOSPITAL TYPES							
NONSPECIAL STATUS HOSPITALS	830	0.2	1.9	0.1	1.8	1.2	3.1
RRC	150	0.1	1.7	0.1	1.6	5.3	2.1
SCH	660	0.2	0.8	0.0	0.7	0.4	3.5
MDH	352	0.2	1.4	0.1	1.3	0.3	3.1

	NUM. OF HOSPS.[1] (0)	DRG RE-CALIB.[2] (1)	NEW WAGE DATA[3] (2)	PHASE-OUT OF GME AND CRNA COSTS[4] (3)	DRG & WI CHANGES[5] (4)	MGCRB RECLASSI-FICATION[6] (5)	ALL FY 2001 CHANGES[7] (6)
SCH AND RRC	58	0.1	0.6	0.0	0.4	1.8	2.1
TYPE OF OWNERSHIP							
VOLUNTARY	2,820	0.0	0.2	0.0	0.0	-0.1	1.1
PROPRIETARY	768	0.1	0.2	0.1	0.0	0.0	0.9
GOVERNMENT	1,214	0.0	0.7	0.1	0.4	0.3	1.9
UNKNOWN	34	-0.2	-0.2	0.0	-0.7	-0.5	0.5
MEDICARE UTILIZATION AS A PERCENT OF INPATIENT DAYS							
0 - 25	379	0.0	0.2	0.1	-0.1	-0.1	1.4
25 - 50	1,830	0.0	0.1	0.1	-0.2	-0.3	1.0
50 - 65	1,893	0.0	0.5	0.0	0.3	0.2	1.3
OVER 65	699	0.1	0.3	0.0	0.3	0.3	1.2
UNKNOWN	35	-0.2	-0.2	0.0	-0.7	-0.5	0.5
HOSPITALS RECLASSIFIED BY THE MEDICARE GEOGRAPHIC REVIEW BOARD							
RECLASSIFICATION STATUS DURING FY 2000 AND FY 2001							
RECLASSIFIED DURING BOTH FY 2000 AND FY 2001	381	0.1	1.2	0.1	1.1	5.4	1.2
URBAN	52	0.0	0.8	0.1	1.0	4.8	-0.2

	NUM. OF HOSPS.[1] (0)	DRG RE-CALIB.[2] (1)	NEW WAGE DATA[3] (2)	PHASE-OUT OF GME AND CRNA COSTS[4] (3)	DRG & WI CHANGES[5] (4)	MGCRB RECLASSI-FICATION[6] (5)	ALL FY 2001 CHANGES[7] (6)
RURAL	329	0.1	1.4	0.1	1.2	5.7	1.8
RECLASSIFIED DURING FY 2001 ONLY	160	0.1	1.1	0.1	0.9	3.9	6.1
URBAN	41	0.0	0.6	0.0	0.3	3.3	4.2
RURAL	119	0.2	1.7	0.1	1.5	4.6	8.5
RECLASSIFIED DURING FY 2000 ONLY	118	0.0	0.5	0.1	0.2	-0.8	-2.8
URBAN	31	0.0	-0.2	0.1	-0.5	-1.1	-2.7
RURAL	87	0.2	1.5	0.1	1.4	-0.4	-2.9
FY 2001 RECLASSIFICATIONS							
ALL RECLASSIFIED HOSPITALS	541	0.1	1.2	0.1	1.0	5.0	2.4
STANDARDIZED AMOUNT ONLY	66	0.1	0.8	0.1	0.7	3.7	0.6
WAGE INDEX ONLY	386	0.1	1.2	0.1	1.1	4.3	0.7
BOTH	46	0.1	0.0	0.1	-0.2	4.4	-1.1
NONRECLASSIFIED	4,312	0.0	0.2	0.0	-0.1	-0.5	1.2
ALL URBAN RECLASSIFIED	93	0.0	0.7	0.1	0.7	4.2	1.5
STANDARDIZED AMOUNT ONLY	16	0.2	-0.6	0.0	-0.7	0.7	0.3
WAGE INDEX ONLY	59	0.0	0.7	0.1	0.8	4.8	2.2
BOTH	18	0.0	1.4	0.1	1.1	3.2	-0.9

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	NUM. OF HOSPS.[1] (0)	DRG RE-CALIB.[2] (1)	NEW WAGE DATA[3] (2)	PHASE-OUT OF GME AND CRNA COSTS[4] (3)	DRG & WI CHANGES[5] (4)	MGCRB RECLASSI-FICATION[6] (5)	ALL FY 2001 CHANGES[7] (6)
NONRECLASSIFIED	2,592	0.0	0.0	0.0	-0.2	-0.6	0.9
ALL RURAL RECLASSIFIED	448	0.1	1.4	0.1	1.2	5.5	2.9
STANDARDIZED AMOUNT ONLY	53	0.1	1.5	0.1	1.3	4.3	2.7
WAGE INDEX ONLY	372	0.1	1.4	0.1	1.3	5.4	2.9
BOTH	23	0.0	0.9	0.1	0.6	8.4	3.7
NONRECLASSIFIED	1,677	0.2	1.4	0.1	1.3	-0.4	2.7
OTHER RECLASSIFIED HOSPITALS (SECTION 1886(d)(8)(B))	26	0.2	-0.2	0.0	-0.3	1.4	0.9

[1] Because data necessary to classify some hospitals by category were missing, the total number of hospitals in each category may not equal the national total. Discharge data are from FY 1999, and hospital cost report data are from reporting periods beginning in FY 1997 and FY 1998.

[2] This column displays the payment impact of the recalibration of the DRG weights based on FY 1999 MedPAR data and the DRG reclassification changes, in accordance with section 1886(d)(4)(C) of the Act.

[3] This column shows the payment effects of updating the data used to calculate the wage index with data from the FY 1997 cost reports.

[4] This column displays the impact of removing 60 percent of the costs and hours associated with teaching physicians Part A, residents, and CRNAs from the wage index calculation.

[5] This column displays the combined impact of the reclassification and recalibration of the DRGs, the updated and revised wage data used to calculate the wage index, and the budget neutrality adjustment factor for these two changes, in accordance with sections 1886(d)(4)(C)(iii) and 1886(d)(3)(E) of the Act. Thus, it represents the combined impacts shown in columns 1, 2 and 3, and the FY 2001 budget neutrality factor of .996506.

[6] Shown here are the effects of geographic reclassifications by the Medicare Geographic Classification Review Board (MGCRB). The effects demonstrate the FY 2001 payment impact of going from no reclassifications to the reclassifications scheduled to be in effect for FY 2001. Reclassification for prior years has no bearing on the payment impacts shown here.

[7] This column shows changes in payments from FY 2000 to FY 2001. It incorporates all of the changes displayed in columns 4 and 5 (the changes displayed in columns 1, 2, and 3 are included in column 4). It also displays the impact of the FY 2001 update (including the higher update for SCHs), changes in hospitals' reclassification status in FY 2001 compared to FY 2000, the difference in outlier payments from FY 2000 to FY 2001, and the reductions to payments through the IME adjustment taking effect during FY 2001. It also reflects section 405 of Public law 106-113, which permitted certain SCHs to rebase for a 1996 hospital-specific rate. The sum of these columns may be different from the percentage changes shown here due to rounding and interactive effects.

B. Impact of the Proposed Changes to the DRG Reclassifications and Recalibration of Relative Weights (Column 1)

In column 1 of Table I, we present the combined effects of the DRG reclassifications and recalibration, as discussed in section II of the preamble to this proposed rule. Section 1886(d)(4)(C)(i) of the Act requires us to annually make appropriate classification changes and to recalibrate the DRG weights in order to reflect changes in treatment patterns, technology, and any other factors that may change the relative use of hospital resources.

We compared aggregate payments using the FY 2000 DRG relative weights (GROUPER version 17) to aggregate payments using the proposed FY 2001 DRG relative weights (GROUPER version 18). Overall payments are unaffected by the DRG reclassification and recalibration. Consistent with the minor changes we are proposing for the FY 2001 GROUPER, the redistributional impacts of DRG reclassifications and recalibration across hospital groups are very small (a 0.0 percent impact for large and other urban hospitals; a 0.1 percent increase for rural hospitals). Within hospital categories, the net effects for urban hospitals are small positive changes for small hospitals (a 0.1 percent increase for hospitals with fewer than 200 beds), and small decreases for larger hospitals (a 0.1 percent decrease for hospitals with more than 300 beds). Among rural hospitals, small hospital categories experience the largest increases, a 0.2 percent increase for hospitals with fewer than 50 beds.

The breakdown by urban census division shows that the small decrease among urban hospitals is confined to the West North Central and Mountain regions. Payments to urban hospitals in most other regions are unchanged, while payments to urban hospitals in Puerto Rico rise by 0.1 percent. All rural hospital census divisions experience payment increases ranging from 0.1 percent for hospitals in New England, Middle Atlantic, East North Central, West North Central, and Mountain regions to 0.2 percent for hospitals in the South Atlantic, East South Central, West South Central, Pacific, and Puerto Rico census divisions.

C. Impact of Updating the Wage Data (Column 2)

Section 1886(d)(3)(E) of the Act requires that, beginning October 1, 1993, we annually update the wage data used to calculate the wage index. In accordance with this requirement, the proposed wage index for FY 2001 is based on data submitted for hospital cost reporting periods beginning on or after October 1, 1996 and before October 1, 1997. As with the previous column, the impact of the new data on hospital payments is isolated by holding the other payment parameters constant in the two simulations. That is, column 2 shows the percentage changes in payments when going from a model using the FY 2000 wage index (based on FY 1996 wage data before geographic reclassifications to a model using the FY 2001 prereclassification wage index based on FY 1997 wage data). Sections 152 and 154 of Public Law 106–113 reclassified certain hospitals for purposes of the wage index standardized amounts. For purposes of this column, these hospitals are located in their prereclassification geographic location. The impacts of these statutory reclassifications are shown in column 5, when examining the impacts of geographic reclassification.

The wage data collected on the FY 1997 cost reports are similar to the data used in the calculation of the FY 2000 wage index. For a thorough discussion of the data used to calculate the wage index, see section III.B. of this proposed rule.

The results indicate that the new wage data have an overall impact of a 0.3 percent increase in hospital payments (prior to applying the budget neutrality factor, see column 5). Rural hospitals especially appear to benefit from the update. Their payments increase by 1.4 percent. These increases are attributable to relatively large increases in the wage index values for the rural areas of particular States; Hawaii, Louisiana, and Montana all had increases greater than 6 percent in their prereclassification wage index values.

Urban hospitals as a group are not significantly affected by the updated wage data. The gains of hospitals in other urban areas (0.6 percent increase) are offset by decreases among hospitals in large urban areas (0.3 percent decrease). Urban hospitals in Puerto Rico experience a 7.0 percent decrease, largely due to declines of 6 percent or more in the prereclassified FY 2001 wage indexes of 2 MSAs. Urban hospitals in the East South Central census region experience a 6 percent decline due to several MSAs in Tennessee with prereclassified FY 2001 wage indexes that fall by 6 percent or more. We note that the wage data used for the proposed wage index are based upon the data available as of February 22, 2000 and, therefore, do not reflect revision requests received and processed by the fiscal intermediaries after that date. To the extent these requests are granted by hospitals' fiscal intermediaries, these revisions will be reflected in the final rule. In addition, we continue to verify the accuracy of the data for hospitals with extraordinary changes in their data from the prior year.

The largest increases are seen in the rural census divisions. Rural South Atlantic experiences the greatest positive impact, 1.9 percent. Hospitals in five other census divisions receive positive impacts over 1.0 percent: West South Central at 1.7, East North Central at 1.5, East South Central at 1.4, Pacific at 1.4, and West North Central at 1.3. The following chart compares the shifts in wage index values for labor market areas for FY 2000 relative to FY 2001. This chart demonstrates the impact of the proposed changes for the FY 2001 wage index relative to the FY 2000 wage index. The majority of labor market areas (322) experience less than a 5-percent change. A total of 39 labor market areas experience an increase of more than 5 percent with 12 having an increase greater than 10 percent. A total of 15 areas experience decreases of more than 5-percent. Of those, 10 decline by 10 percent or more.

Percentage change in area wage index values	Number of labor market areas	
	FY 2000	FY 2001
Increase more than 10 percent	8	12
Increase more than 5 percent and less than 10 percent	22	27
Increase or decrease less than 5 percent	318	322
Decrease more than 5 percent and less than 10 percent	17	5
Decrease more than 10 percent	5	10

Among urban hospitals, 125 would experience an increase of between 5 and 10 percent and 19 more than 10 percent. A total of 401 rural hospitals have increases greater than 5 percent, but none greater than 10 percent. On the negative side, 55 urban hospitals have decreases in their wage index values of at least 5 percent but less than 10 percent. Twelve urban hospitals have decreases in their wage index values greater than 10 percent. There are no rural hospitals with decreases in their wage index values greater than 5 percent or with increases of more than 10 percent. The following chart shows the projected impact for urban and rural hospitals.

Percentage change in area wage index values	Number of hospitals	
	Urban	Rural
Increase more than 10 percent	19	0
Increase more than 5 percent and less than 10 percent	125	401
Increase or decrease less than 5 percent	2,499	1,725

Percentage change in area wage index values	Number of hospitals	
	Urban	Rural
Decrease more than 5 percent and less than 10 percent	55	0
Decrease more than 10 percent	12	0

D. Impact of 5-Year Phase-Out of Teaching Physicians', Residents', and CRNAs' Costs (Column 3)

As described in section III.C. of this preamble, the proposed FY 2001 wage index is calculated by blending 60 percent of hospitals' average hourly wages calculated without removing teaching physician (paid under Medicare Part A), residents, or CRNA costs (and hours); and 40 percent of average hourly wages calculated after removing these costs (and hours). This constitutes the second year of a 5-year phase-out of these costs and hours, where the proportion of the calculation based upon average hourly wages after removing these costs increases by 20 percentage points per year.

In order to determine the impact of moving from the 80/20 blend percentage to the 60/40 blend percentage, we first estimated the payments for FY 2001 using the FY 2001 prereclassified wage index calculated using the 80/20 blend percentage (Column 2). We then estimated what the payments for FY 2001 would have been if the 60/40 blend percentage was applied to the FY 2001 prereclassified wage index. Column 3 compares the differences in these payment estimates and shows that the 60/40 blend percentage does not significantly impact overall payments (0.0 percent change). Only 53 labor market areas experience a decrease in their wage index and none decreases by more than −0.1 percent.

E. Combined Impact of DRG and Wage Index Changes—Including Budget Neutrality Adjustment (Column 4)

The impact of DRG reclassifications and recalibration on aggregate payments is required by section 1886(d)(4)(C)(iii) of the Act to be budget neutral. In addition, section 1886(d)(3)(E) of the Act specifies that any updates or adjustments to the wage index are to be budget neutral. As noted in the Addendum to this proposed rule, we compared simulated aggregate payments using the FY 2000 DRG relative weights and wage index to simulated aggregate payments using the proposed FY 2001 DRG relative weights and blended wage index. Based on this comparison, we computed a wage and recalibration budget neutrality factor of 0.996506. In Table I, the combined overall impacts of the effects of both the DRG reclassifications and recalibration and the updated wage index are shown in column 4. The 0.0 percent impact for all hospitals demonstrates that these changes, in combination with the budget neutrality factor, are budget neutral.

For the most part, the changes in this column are the sum of the changes in columns 1, 2, and 3, minus approximately 0.3 percent attributable to the budget neutrality factor. There may be some variation of plus or minus 0.1 percent due to rounding.

F. Impact of MGCRB Reclassifications (Column 5)

Our impact analysis to this point has assumed hospitals are paid on the basis of their actual geographic location (with the exception of ongoing policies that provide that certain hospitals receive payments on bases other than where they are geographically located, such as hospitals in rural counties that are deemed urban under section 1886(d)(8)(B) of the Act). The changes in column 5 reflect the per case payment impact of moving from this baseline to a simulation incorporating the MGCRB decisions for FY 2001. As noted below, these decisions affect hospitals' standardized amount and wage index area assignments. In addition, until FY 2002, rural hospitals reclassified for purposes of the standardized amount qualify to be treated as urban for purposes of the DSH adjustment.

Beginning in 1998, by February 28 of each year, the MGCRB makes reclassification determinations that will be effective for the next fiscal year, which begins on October 1. (In previous years, these determinations were made by March 30.) The MGCRB may approve a hospital's reclassification request for the purpose of using the other area's standardized amount, wage index value, or both, or for FYs 1999 through 2001, for purposes of qualifying for a DSH adjustment or to receive a higher DSH payment.

The proposed FY 2001 wage index values incorporate all of the MGCRB's reclassification decisions for FY 2001. The wage index values also reflect any decisions made by the HCFA Administrator through the appeals and review process for MGCRB decisions as of February 29, 2000. Additional changes that result from the Administrator's review of MGCRB decisions or a request by a hospital to withdraw its application will be reflected in the final rule for FY 2001.

Section 152 of Public Law 106–113 reclassified certain hospitals for purposes of the wage index and the standardized amounts. The impacts of these statutory reclassifications are included in this column.

The overall effect of geographic reclassification is required by section 1886(d)(8)(D) of the Act to be budget neutral. Therefore, we applied an adjustment of 0.994270 to ensure that the effects of reclassification are budget neutral. (See section II.A.4.b. of the Addendum to this proposed rule.)

As a group, rural hospitals benefit from geographic reclassification. Their payments rise 2.4 percent, while payments to urban hospitals decline 0.4 percent. Hospitals in other urban areas see a decrease in payments of 0.3 percent, while large urban hospitals lose 0.5 percent. Among urban hospital groups (that is, bed size, census division, and special payment status), payments generally decline.

A positive impact is evident among most of the rural hospital groups. The largest decrease among the rural census divisions is 0.6 percent for Puerto Rico. The largest increases are in rural Middle Atlantic and West South Central. These regions all receive an increase of 2.8 percent.

Among rural hospitals designated as RRCs, 127 hospitals are reclassified for purposes of the wage index only, leading to the 5.3 percent increase in payments among RRCs overall. This positive impact on RRCs is also reflected in the category of rural hospitals with 150–199 beds, which has a 4.9 percent increase in payments.

Rural hospitals reclassified for FY 2000 and FY 2001 experience a 5.7 percent increase in payments. This may be due to the fact that these hospitals have the most to gain from reclassification and have been reclassified for a period of years. Rural hospitals reclassified for FY 2001 only experience a 4.6 percent increase in payments, while rural hospitals reclassified for FY 2000 only experience a 0.4 percent decrease in payments. Urban hospitals reclassified for FY 2001 but not FY 2000 experience a 3.3 percent increase in payments overall. Urban hospitals reclassified for FY 2000 but not for FY 2001 experience a 1.1 percent decline in payments.

The FY 2001 Reclassification rows of Table I show the changes in payments per case for all FY 2001 reclassified and nonreclassified hospitals in urban and rural locations for each of the three reclassification categories (standardized amount only, wage index only, or both). The table illustrates that the largest impact for reclassified rural hospitals is for those hospitals reclassified for both the standardized amount and the wage index. These hospitals receive an 8.4 percent increase in payments. In addition, rural hospitals reclassified just for the wage index receive a 5.4 percent payment increase. The overall impact on reclassified hospitals is to increase their payments per case by an average of 5 percent for FY 2001.

The reclassification of hospitals primarily affects payment to nonreclassified hospitals through changes in the wage index and the geographic reclassification budget neutrality adjustment required by section 1886(d)(8)(D) of the Act. Among hospitals that are not reclassified, the overall impact of hospital reclassifications is an average decrease in payments per case of about 0.4 percent. Rural nonreclassified hospitals decrease by 0.4 percent, and urban nonreclassified hospitals lose 0.6 percent (the amount of the budget neutrality offset).

The foregoing analysis was based on MGCRB and HCFA Administrator decisions made by February 29, 2000. As previously noted, there may be changes to some MGCRB decisions through the appeals, review, and applicant withdrawal process. The outcome

of these cases will be reflected in the analysis presented in the final rule.

G. All Changes (Column 6)

Column 6 compares our estimate of payments per case, incorporating all changes reflected in this proposed rule for FY 2001 (including statutory changes), to our estimate of payments per case in FY 2000. It includes the effects of the 2.0 percent update to the standardized amounts and the hospital-specific rates for MDHs and the 3.1 percent update for SCHs. It also reflects the 1.0 percentage point difference between the projected outlier payments in FY 2000 (5.1 percent of total DRG payments) and the current estimate of the percentage of actual outlier payments in FY 2000 (6.1 percent), as described in the introduction to this Appendix and the Addendum to this proposed rule.

Another change affecting the difference between FY 2000 and FY 2001 payments arises from section 1886(d)(5)(8) of the Act, as amended by Public Law 106–113. As noted in the introduction to this impact analysis, for FY 2001, the IME adjustment is decreased from last year (6.5 percent in FY 2000 and 6.25 percent in FY 2001).

We also note that column 6 includes the impacts of FY 2001 MGCRB reclassifications compared to the payment impacts of FY 2000 reclassifications. Therefore, when comparing FY 2001 payments to FY 2000, the percent changes due to FY 2001 reclassifications shown in column 5 need to be offset by the effects of reclassification on hospitals' FY 2000 payments (column 7 of Table 1, July 30, 1999 final rule (64 FR 41625)). For example, the impact of MGCRB reclassifications on rural hospitals' FY 2001 payments was approximately a 2.4 percent increase, offsetting most of the 2.6 percent increase in column 7 for FY 2000. Therefore, the net change in FY 2001 payments due to reclassification for rural hospitals is actually a decrease of 0.2 percent relative to FY 2000. However, last year's analysis contained a somewhat different set of hospitals, so this might affect the numbers slightly.

Finally, section 405 of Public Law 106–113 provided that certain SCHs may elect to receive payment on the basis of their costs per case during their cost reporting period that began during 1996. To be eligible, a SCH must have received payment for cost reporting periods beginning during 1999 on the basis of its hospital-specific rate. For FY 2001, eligible SCHs that elect rebasing receive a hospital-specific rate comprised of 75 percent of the higher of their FY 1982 or FY 1987 hospital-specific rate, and 25 percent of their 1996 hospital-specific rate. The impact of this provision is modeled in column 6 as well.

There might also be interactive effects among the various factors comprising the payment system that we are not able to isolate. For these reasons, the values in column 6 may not equal the sum of the changes in columns 4 and 5, plus the other impacts that we are able to identify.

The overall payment change from FY 2000 to FY 2001 for all hospitals is a 1.2 percent increase. This reflects the 2.0 percent update for FY 2001 (3.1 percent for SCHs), the 1.0 percent lower outlier payments in FY 2001 compared to FY 2000 (5.1 percent compared to 6.1 percent); the change in the IME adjustment (6.5 in FY 2000 to 6.2 in FY 2001); and the rebasing of certain SCHs to their 1996 hospital-specific rate.

Hospitals in urban areas experience a 0.9 percent increase in payments per case compared to FY 2000. The 0.4 percent negative impact due to reclassification is offset by an identical negative impact for FY 2000. Hospitals in rural areas, meanwhile, experience a 2.8 percent payment increase. As discussed previously, this is primarily due to the positive effect of the wage index and DRG changes (1.2 percent increase).

Among urban census divisions, other than the Middle Atlantic and East South Central regions (which experience no change and a 0.2 percent increase in payments, respectively), payments increased between 0.9 and 1.6 percent between FY 2000 and FY 2001. The rural census division experiencing the smallest increase in payments was Puerto Rico (0.1 percent). The largest increases by rural hospitals are in the Mountain and West North Central regions, both with 3.1 percent. Among other rural census divisions, the largest increases are in the South Atlantic and the East North Central, both with 3.0.

Among special categories of rural hospitals, those hospitals receiving payment under the hospital-specific methodology (SCHs, MDHs, and SCH/RRCs) experience payment increases of 3.5 percent, 3.1 percent, and 2.1 percent, respectively. This outcome is primarily related to the fact that, for hospitals receiving payments under the hospital-specific methodology, there are no outlier payments. Therefore, these hospitals do not experience negative payment impacts from the decline in outlier payments from FY 2000 to FY 2001 (from 6.1 of total DRG plus outlier payments to 5.1 percent) as do hospitals paid based on the national standardized amounts.

The largest negative payment impacts from FY 2000 to FY 2001 are among hospitals that were reclassified for FY 2000 and are not reclassified for FY 2001. Overall, these hospitals lose 2.8 percent. The urban hospitals in this category lose 2.7 percent, while the rural hospitals lose 2.9 percent. On the other hand, hospitals reclassified for FY 2001 that were not reclassified for FY 2000 would experience the greatest payment increases: 6.1 percent overall; 8.5 percent for 119 rural hospitals in this category and 4.2 percent for 41 urban hospitals.

TABLE II.—IMPACT ANALYSIS OF CHANGES FOR FY 2000 OPERATING PROSPECTIVE PAYMENT SYSTEM

[Payments per case]

(BY GEOGRAPHIC LOCATION)	Number of hospitals (1)	Average FY 2000 payment per case (2) [1]	Average FY 2001 payment per case (3) [1]	All changes (4)
ALL HOSPITALS	4,836	$6,816	$6,895	1.2
URBAN HOSPITALS	2,710	7,391	7,457	0.9
LARGE URBAN AREAS	1,545	7,927	7,973	0.6
OTHER URBAN AREAS	1,165	6,694	6,786	1.4
RURAL HOSPITALS	2,126	4,565	4,695	2.8
BED SIZE (URBAN):				
0–99 BEDS	687	4,970	5,041	1.4
100–199 BEDS	928	6,235	6,300	1.0
200–299 BEDS	543	7,022	7,076	0.8
300–499 BEDS	410	7,884	7,943	0.8
500 OR MORE BEDS	142	9,762	9,859	1.0
BED SIZE (RURAL):				
0–49 BEDS	1,208	3,787	3,925	3.6
50–99 BEDS	549	4,273	4,402	3.0
100–149 BEDS	217	4,671	4,789	2.5
150–199 BEDS	85	5,112	5,251	2.7
200 OR MORE BEDS	67	5,719	5,847	2.2
URBAN BY CENSUS DIVISION:				
NEW ENGLAND	146	7,843	7,939	1.2
MIDDLE ATLANTIC	412	8,311	8,314	0.0

TABLE II.—IMPACT ANALYSIS OF CHANGES FOR FY 2000 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued

[Payments per case]

(BY GEOGRAPHIC LOCATION)	Number of hospitals (1)	Average FY 2000 payment per case (2)[1]	Average FY 2001 payment per case (3)[1]	All changes (4)
SOUTH ATLANTIC	400	7,045	7,120	1.1
EAST NORTH CENTRAL	457	7,113	7,187	1.0
EAST SOUTH CENTRAL	156	6,648	6,660	0.2
WEST NORTH CENTRAL	185	7,128	7,235	1.5
WEST SOUTH CENTRAL	343	6,788	6,898	1.6
MOUNTAIN	132	7,047	7,138	1.3
PACIFIC	434	8,591	8,678	1.0
PUERTO RICO	45	3,169	3,198	0.9
RURAL BY CENSUS DIVISION:				
NEW ENGLAND	52	5,462	5,604	2.6
MIDDLE ATLANTIC	79	4,927	5,056	2.6
SOUTH ATLANTIC	276	4,698	4,840	3.0
EAST NORTH CENTRAL	280	4,615	4,751	3.0
EAST SOUTH CENTRAL	265	4,231	4,331	2.4
WEST NORTH CENTRAL	491	4,380	4,517	3.1
WEST SOUTH CENTRAL	337	4,062	4,170	2.7
MOUNTAIN	201	4,895	5,046	3.1
PACIFIC	140	5,612	5,769	2.8
PUERTO RICO	5	2,455	2,457	0.1
(BY PAYMENT CATEGORIES)				
URBAN HOSPITALS:	2,786	7,352	7,419	0.9
LARGE URBAN	1,617	7,852	7,898	0.6
OTHER URBAN	1,169	6,681	6,776	1.4
RURAL HOSPITALS	2,050	4,538	4,665	2.8
TEACHING STATUS:				
NON-TEACHING	3,730	5,502	5,578	1.4
FEWER THAN 100 RESIDENTS	870	7,175	7,256	1.1
100 OR MORE RESIDENTS	236	10,914	11,001	0.8
DISPROPORTIONATE SHARE HOSPITALS (DSH):				
NON–DSH	3,025	5,850	5,915	1.1
URBAN DSH:				
100 BEDS OR MORE	1,377	7,959	8,047	1.1
FEWER THAN 100 BEDS	76	4,966	5,045	1.6
RURAL DSH:				
SOLE COMMUNITY (SCH)	153	4,198	4,397	4.7
REFERRAL CENTERS (RRC)	54	5,384	5,465	1.5
OTHER RURAL DSH HOSPITALS:				
100 BEDS OR MORE	48	4,141	4,249	2.6
FEWER THAN 100 BEDS	103	3,706	3,844	3.7
URBAN TEACHING AND DSH:				
BOTH TEACHING AND DSH	716	8,864	8,962	1.1
TEACHING AND NO DSH	325	7,372	7,413	0.6
NO TEACHING AND DSH	737	6,362	6,432	1.1
NO TEACHING AND NO DSH	1,008	5,711	5,744	0.6
RURAL HOSPITAL TYPES:				
NONSPECIAL STATUS HOSPITALS	830	3,968	4,092	3.1
RRC	150	5,269	5,380	2.1
SCH	660	4,534	4,692	3.5
MDH	352	3,786	3,903	3.1
SCH AND RRC	58	5,533	5,651	2.1
TYPE OF OWNERSHIP:				
VOLUNTARY	2,820	6,987	7,062	1.1
PROPRIETARY	768	6,276	6,335	0.9
GOVERNMENT	1,214	6,307	6,427	1.9
UNKNOWN	34	11,179	11,236	0.5
MEDICARE UTILIZATION AS A PERCENT OF INPATIENT DAYS:				
0–25	379	9,010	9,136	1.4
25–50	1,830	7,891	7,972	1.0
50–65	1,893	5,958	6,036	1.3
OVER 65	699	5,297	5,358	1.2
UNKNOWN	35	11,178	11,236	0.5
HOSPITALS RECLASSIFIED BY THE MEDICARE GEOGRAPHIC REVIEW BOARD:				
RECLASSIFICATION STATUS DURING FY 2000 AND FY 2001:				
RECLASSIFIED DURING BOTH FY 2000 AND FY 2001	381	5,848	5,921	1.2
URBAN	52	8,046	8,033	−0.2
RURAL	329	5,272	5,367	1.8

TABLE II.—IMPACT ANALYSIS OF CHANGES FOR FY 2000 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued

[Payments per case]

	Number of hospitals	Average FY 2000 payment per case	Average FY 2001 payment per case	All changes
	(1)	(2) [1]	(3) [1]	(4)
RECLASSIFIED DURING FY 2001 ONLY	160	5,900	6,259	6.1
URBAN	41	7,600	7,917	4.2
RURAL	119	4,604	4,994	8.5
RECLASSIFIED DURING FY 2000 ONLY	118	5,940	5,774	−2.8
URBAN	31	7,428	7,226	−2.7
RURAL	87	4,584	4,449	−2.9
FY 2000 RECLASSIFICATIONS:				
ALL RECLASSIFIED HOSPITALS	541	5,861	6,005	2.4
STANDARDIZED AMOUNT ONLY	66	4,864	4,892	0.6
WAGE INDEX ONLY	386	5,889	5,930	0.7
BOTH	46	6,494	6,424	−1.1
NONRECLASSIFIED	4,312	6,944	7,030	1.2
ALL URBAN RECLASSIFIED	93	7,865	7,986	1.5
STANDARDIZED AMOUNT ONLY	16	5,230	5,246	0.3
WAGE INDEX ONLY	59	8,321	8,508	2.2
BOTH	18	8,036	7,962	−0.9
NONRECLASSIFIED	2,592	7,384	7,447	0.9
ALL RURAL RECLASSIFIED	448	5,145	5,296	2.9
STANDARDIZED AMOUNT ONLY	53	4,728	4,856	2.7
WAGE INDEX ONLY	372	5,177	5,327	2.9
BOTH	23	5,267	5,460	3.7
NONRECLASSIFIED	1,677	4,121	4,234	2.7
OTHER RECLASSIFIED HOSPITALS (SECTION 1886(d)(8)(B))	26	4,765	4,808	0.9

[1] These payment amounts per case do not reflect any estimates of annual case-mix increase.

Table II presents the projected impact of the proposed changes for FY 2001 for urban and rural hospitals and for the different categories of hospitals shown in Table I. It compares the estimated payments per case for FY 2000 with the average estimated per case payments for FY 2001, as calculated under our models. Thus, this table presents, in terms of the average dollar amounts paid per discharge, the combined effects of the changes presented in Table I. The percentage changes shown in the last column of Table II equal the percentage changes in average payments from column 6 of Table I.

VIII. Impact of Organ, Tissue and Eye Procurement Condition of Participation on CAHs

In this proposed rule, we propose to add a CoP for organ, tissue and eye procurement for CAHs. We do not anticipate that this condition would have a substantial economic impact on CAHs. However, we believe it is desirable to inform the public of our projections of its likely effects. There are several provisions in this proposed condition that would impact CAHs to a greater or lesser degree. Specifically, CAHs would be required to have written protocols; have agreements with an OPO, a tissue bank, and an eye bank; refer all deaths that occur in the CAH to the OPO or a third party designated by the OPO; ensure that CAH employees who initiate a request for donation to the family of a potential donor have been trained as a designated requestor; and work cooperatively with the OPO, tissue bank, and eye bank in educating CAH staff, reviewing death records, and maintaining potential donors. It is important to note that because of the inherent flexibility of this condition, the extent of its economic impact is dependent upon decisions that will be made either by the CAH or by the CAH in conjunction with the OPO or the tissue and eye banks. Thus, the impact on individual CAHs will vary and is subject in large part to their decision making. The impact will also vary based on whether a CAH currently has an organ donation protocol and its level of compliance with existing law and regulations. For example, if a CAH was a Medicare hospital in compliance with the hospital CoP for organ, tissue, and eye procurement prior to converting to a CAH, there will be no additional impact.

The first requirement in the proposed CoP is that CAHs have and implement written protocols that reflect the various other requirements of the proposed CoP. Currently, under section 1138 of the Act, CAHs must have written protocols for organ donation. Most CAHs will need to rewrite their existing protocols to conform with this regulation; however, this is clearly not a requirement that imposes a significant economic burden.

In addition, a CAH must have an agreement with its designated OPO and with at least one tissue bank and at least one eye bank. CAHs are required under section 1138 of the Act to refer all potential donors to an OPO. Also, the OPO regulation at 42 CFR 486.306 requires, as a qualification for designation as an OPO, that the OPO have a working relationship with at least 75 percent of the hospitals in its service area that participate in the Medicare and Medicaid programs and that have an operating room and the equipment and personnel for retrieving organs. Therefore, some CAHs may already have an agreement with their designated OPO. Although CAHs may need to modify those existing agreements, the need to make modifications would not impose a significant economic burden. Although there is no statutory or regulatory requirement for a CAH to have agreements with tissue and eye banks, we must assume some CAHs have agreements with tissue and eye banks, since hospitals are the source for virtually all tissues and eyes.

The CoP would require CAHs to notify the OPO about every death that occurs in the CAH. The average Medicare hospital has approximately 165 beds and 200 deaths per year. However, by statute and regulation, CAHs may use no more than 15 beds for acute care services. Assuming that the number of deaths in a hospital is related to the number of acute care beds, there should be approximately 18 deaths per year in the average CAH. Thus, the economic impact for a CAH of referring all deaths would be small.

Under the proposed CoP, a CAH may agree to have the OPO determine medical suitability for tissue and eye donation or may have alternative arrangements with a tissue bank and an eye bank. These alternative arrangements could include the CAH's direct notification of the tissue and eye bank of potential tissue and eye donors or direct notification of all deaths. Again, the impact is small, and the regulation permits the CAH to decide how this process will take place. We recognize that many communities already have a one-phone-call system in place. In addition, some OPOs are also tissue banks or eye banks or both. A CAH that chose to use the OPO's tissue and eye bank services in these localities would need to make only one telephone call on every death.

This proposed CoP requires that the individual who initiates a request for

donation to the family of a potential donor must be an OPO representative or a designated requestor. A designated requestor is an individual who has taken a course offered or approved by the OPO in the methodology for approaching families of potential donors and requesting donation. The CAH would need to arrange for designated requestor training. Most OPOs have trained designated requestors as part of the hospital CoP for organ, tissue, and eye procurement. Even if the CAH wants to have a sufficient number of designated requestors to ensure that all shifts are covered, this provision of the regulation would not have a significant economic impact on CAHs. In addition, the CAH may be able to choose to have donation requests initiated by the OPO, the tissue bank, or the eye bank staff rather than CAH staff, in which case there is no economic impact.

The regulation requires a CAH to work cooperatively with the OPO, a tissue bank, and an eye bank in educating CAH staff. We do not believe education of CAH staff will demand a significant amount of staff time. In addition, most OPOs already give educational presentations for the staff in their hospitals.

The regulation requires a CAH to work cooperatively with the OPO, a tissue bank, and an eye bank in reviewing death records. Most OPOs currently conduct extensive CAH death record reviews. The CAH's assistance is required only to provide lists of CAH deaths and facilitate access to records.

Finally, the regulation requires a CAH to work cooperatively with the OPO, a tissue bank, and an eye bank in maintaining potential donors while necessary testing and placement of potential donated organs and tissues take place. It is possible that because of the proposed CoP, some CAHs may have their first organ donors. Therefore, we considered the impact on a CAH of maintaining a brain dead potential donor on a ventilator until the organs can be placed. CAHs with full ventilator capability should have no trouble maintaining a potential donor until the organs are placed. However, some CAHs have ventilator capability only so that a patient can be maintained until he or she is transferred to a larger facility for treatment. These CAHs would have the equipment and staffing to maintain a potential donor until transfer to another facility occurs. Some CAHs do not have ventilator capability and would be unable to maintain a potential donor. However, CAHs without ventilator capability would still be obligated to notify the OPO, or a third party designated by the OPO, of all individuals whose death is imminent or who have died in the CAH because there is a potential to obtain a tissue or an eye donation. We do not believe there will be a significant impact on CAHs no matter what their situation—full ventilator capability, ventilator capability only for patients who are to be transferred to a larger facility, or no ventilator capability.

We are sensitive to the possible burden this proposed CoP may place on CAHs. Therefore, we are particularly interested in comments and information concerning the previously mentioned requirements.

IX. Impact of Proposed Changes in the Capital Prospective Payment System

A. General Considerations

We now have cost report data for the 7th year of the capital prospective payment system (cost reports beginning in FY 1998) available through the December 1999 update of the HCRIS. We also have updated information on the projected aggregate amount of obligated capital approved by the fiscal intermediaries. However, our impact analysis of payment changes for capital-related costs is still limited by the lack of hospital-specific data on several items. These are the hospital's projected new capital costs for each year, its projected old capital costs for each year, and the actual amounts of obligated capital that will be put in use for patient care and recognized as Medicare old capital costs in each year. The lack of this information affects our impact analysis in the following ways:

- Major investment in hospital capital assets (for example, in building and major fixed equipment) occurs at irregular intervals. As a result, there can be significant variation in the growth rates of Medicare capital-related costs per case among hospitals. We do not have the necessary hospital-specific budget data to project the hospital capital growth rate for individual hospitals.
- Our policy of recognizing certain obligated capital as old capital makes it difficult to project future capital-related costs for individual hospitals. Under § 412.302(c), a hospital is required to notify its intermediary that it has obligated capital by the later of October 1, 1992, or 90 days after the beginning of the hospital's first cost reporting period under the capital prospective payment system. The intermediary must then notify the hospital of its determination whether the criteria for recognition of obligated capital have been met by the later of the end of the hospital's first cost reporting period subject to the capital prospective payment system or 9 months after the receipt of the hospital's notification. The amount that is recognized as old capital is limited to the lesser of the actual allowable costs when the asset is put in use for patient care or the estimated costs of the capital expenditure at the time it was obligated. We have substantial information regarding fiscal intermediary determinations of projected aggregate obligated capital amounts. However, we still do not know when these projects will actually be put into use for patient care, the actual amount that will be recognized as obligated capital when the project is put into use, or the Medicare share of the recognized costs. Therefore, we do not know actual obligated capital commitments for purposes of the FY 2001 capital cost projections. In Appendix B of this proposed rule, we discuss the assumptions and computations that we employ to generate the amount of obligated capital commitments for use in the FY 2001 capital cost projections.

In Table III of this section, we present the redistributive effects that are expected to occur between ''hold-harmless'' hospitals and ''fully prospective'' hospitals in FY 2001. In addition, we have integrated sufficient hospital-specific information into our actuarial model to project the impact of the proposed FY 2001 capital payment policies by the standard prospective payment system hospital groupings. While we now have actual information on the effects of the transition payment methodology and interim payments under the capital prospective payment system and cost report data for most hospitals, we still need to randomly generate numbers for the change in old capital costs, new capital costs for each year, and obligated amounts that will be put in use for patient care services and recognized as old capital each year. We continue to be unable to predict accurately FY 2001 capital costs for individual hospitals, but with the most recent data on hospitals' experience under the capital prospective payment system, there is adequate information to estimate the aggregate impact on most hospital groupings.

B. Projected Impact Based on the Proposed FY 2001 Actuarial Model

1. Assumptions

In this impact analysis, we model dynamically the impact of the capital prospective payment system from FY 2000 to FY 2001 using a capital cost model. The FY 2001 model, as described in Appendix B of this proposed rule, integrates actual data from individual hospitals with randomly generated capital cost amounts. We have capital cost data from cost reports beginning in FY 1989 through FY 1998 as reported on the December 1999 update of HCRIS, interim payment data for hospitals already receiving capital prospective payments through PRICER, and data reported by the intermediaries that include the hospital-specific rate determinations that have been made through January 1, 2000 in the provider-specific file. We used these data to determine the proposed FY 2001 capital rates. However, we do not have individual hospital data on old capital changes, new capital formation, and actual obligated capital costs. We have data on costs for capital in use in FY 1998, and we age that capital by a formula described in Appendix B. Therefore, we need to randomly generate only new capital acquisitions for any year after FY 1998. All Federal rate payment parameters are assigned to the applicable hospital.

For purposes of this impact analysis, the proposed FY 2001 actuarial model includes the following assumptions:

- Medicare inpatient capital costs per discharge will change at the following rates during these periods:

AVERAGE PERCENTAGE CHANGE IN CAPITAL COSTS PER DISCHARGE

Fiscal year	Percentage change
1999	3.16
2000	2.34
2001	1.99

- We estimate that the Medicare case-mix index will increase by 0.5 percent in FY 2000 and in FY 2001.

• The Federal capital rate and the hospital-specific rate were updated in FY 1996 by an analytical framework that considers changes in the prices associated with capital-related costs and adjustments to account for forecast error, changes in the case-mix index, allowable changes in intensity, and other factors. The proposed FY 2001 update is 0.9 percent (see section IV. of the Addendum to this proposed rule).

2. Results

We have used the actuarial model to estimate the change in payment for capital-related costs from FY 2000 to FY 2001. Table III shows the effect of the capital prospective payment system on low capital cost hospitals and high capital cost hospitals. We consider a hospital to be a low capital cost hospital if, based on a comparison of its initial hospital-specific rate and the applicable Federal rate, it will be paid under the fully prospective payment methodology. A high capital cost hospital is a hospital that, based on its initial hospital-specific rate and the applicable Federal rate, will be paid under the hold-harmless payment methodology. Based on our actuarial model, the breakdown of hospitals is as follows:

CAPITAL TRANSITION PAYMENT METHODOLOGY FOR FY 2001

Type of hospital	Percent of hospitals	Percent of discharges	Percent of capital costs	Percent of capital payments
Low Cost Hospital	67	62	56	61
High Cost Hospital	33	38	44	39

A low capital cost hospital may request to have its hospital-specific rate redetermined based on old capital costs in the current year, through the later of the hospital's cost reporting period beginning in FY 1994 or the first cost reporting period beginning after obligated capital comes into use (within the limits established in § 412.302(e) for putting obligated capital into use for patient care). If the redetermined hospital-specific rate is greater than the adjusted Federal rate, these hospitals will be paid under the hold-harmless payment methodology. Regardless of whether the hospital became a hold-harmless payment hospital as a result of a redetermination, we continue to show these hospitals as low capital cost hospitals in Table III.

Assuming no behavioral changes in capital expenditures, Table III displays the percentage change in payments from FY 2000 to FY 2001 using the above described actuarial model. With the proposed Federal rate, we estimate aggregate Medicare capital payments will increase by 5.89 percent in FY 2001. This increase is noticeably higher than last year's (3.34 percent) due to the combination of the increase in the number of hospital admissions, the increase in case-mix, and the increase in the Federal blend percentage from 90 percent to 100 percent and a decrease in the hospital-specific rate percentage from 10 percent to 0 percent for fully prospective payment hospitals.

TABLE III.—IMPACT OF PROPOSED CHANGES FOR FY 2001 ON PAYMENTS PER DISCHARGE

	Number of Hospitals	Discharges	Adjusted Federal payment	Average Federal percent	Hospital specific payment	Hold harmless payment	Exceptions payment	Total payment	Percent Change over FY 2000
FY 2000 Payments per Discharge									
Low Cost Hospitals	3,187	6,757,956	$581.11	90.42	$30.20	$2.40	$8.90	$622.61	.....
Fully Prospective	3,015	6,289,996	577.57	90.00	32.44	.....	8.52	618.53	.....
100% Federal Rate	155	430,322	638.22	100.00	.....	.....	3.76	641.98	.....
Hold Harmless	17	37,639	520.20	60.95	.....	431.53	130.53	1,082.26	.....
High Cost Hospitals	1,588	4,091,922	658.45	97.93	.....	19.44	13.10	690.98	.....
100% Federal Rate	1,394	3,742,341	676.37	100.00	.....	.....	9.01	685.38	.....
Hold Harmless	194	349,581	466.63	74.15	.....	227.51	56.83	750.97	.....
Total Hospitals	4,775	10,849,879	610.28	93.33	18.81	8.83	10.48	648.40	.....
FY 2001 Payments per Discharge									
Low Cost Hospitals	3,187	6,869,437	$649.67	99.81	.....	$1.74	$10.12	$661.54	6.25
Fully Prospective	3,015	6,393,759	650.22	100.00	.....	.....	9.55	659.77	6.67
100% Federal Rate	157	442,002	648.25	100.00	.....	.....	4.59	652.84	1.69
Hold Harmless	15	33,676	564.26	68.97	.....	355.91	191.29	1,111.46	2.70
High Cost Hospitals	1,588	4,159,343	666.60	98.79	.....	12.23	19.53	698.36	1.07
100% Federal Rate	1,412	3,853,508	680.13	100.00	.....	.....	13.37	693.50	1.19
Hold Harmless	176	305,834	496.05	81.77	.....	166.38	97.07	759.50	1.14
Total Hospitals	4,775	11,028,780	656.05	99.42	.....	5.70	13.67	675.42	4.17

We project that low capital cost hospitals paid under the fully prospective payment methodology will experience an average increase in payments per case of 6.67 percent, and high capital cost hospitals will experience an average increase of 1.07 percent. These results are due to the change in the blended percentages to the payment system to 100 percent adjusted Federal rate and 0 percent hospital-specific rate.

For hospitals paid under the fully prospective payment methodology, the Federal rate payment percentage will increase from 90 percent to 100 percent and the hospital-specific rate payment percentage will decrease from 10 to 0 percent in FY 2001. The Federal rate payment percentage for hospitals paid under the hold-harmless payment methodology is based on the hospital's ratio of new capital costs to total capital costs. The average Federal rate payment percentage for high cost hospitals receiving a hold-harmless payment for old capital will increase from 74.15 percent to 81.77 percent. We estimate the percentage of hold-harmless hospitals paid based on 100

percent of the Federal rate will increase from 87.78 percent to 88.92 percent. We estimate that the few remaining high cost hold-harmless hospitals (176) will experience an increase in payments of 1.14 percent from FY 2000 to FY 2001. This increase reflects our estimate that exception payments per discharge will increase 70.81 percent from FY 2000 to FY 2001 for high cost hold-harmless hospitals. While we estimate that this group's regular hold-harmless payments for old capital will decline by 26.87 percent due to the retirement of old capital, we estimate that its high overall capital costs will cause an increase in these hospitals' exceptions payments from $56.83 per discharge in FY 2000 to $97.07 per discharge in FY 2001. This is primarily due to the estimated decrease in outlier payments, which will cause an estimated increase in exceptions payments to cover unmet capital costs.

We expect that the average hospital-specific rate payment per discharge will decrease from $32.44 in FY 2000 to $0.00 in FY 2001. This decrease is due to the decrease in the hospital-specific rate payment percentage from 10 percent in FY 2000 to 0 percent in FY 2001 for fully prospective payment hospitals.

We are proposing no changes in our exceptions policies for FY 2001. As a result, the minimum payment levels would be—

- 90 percent for sole community hospitals;
- 80 percent for urban hospitals with 100 or more beds and a disproportionate share patient percentage of 20.2 percent or more; or
- 70 percent for all other hospitals.

We estimate that exceptions payments will increase from 1.62 percent of total capital payments in FY 2000 to 2.02 percent of payments in FY 2001. The projected distribution of the exception payments is shown in the chart below:

ESTIMATED FY 2001 EXCEPTIONS PAYMENTS

Type of hospital	Number of hospitals	Percent of exceptions payments
Low Capital Cost	186	46
High Capital Cost	191	54
Total	377	100

C. Cross-Sectional Comparison of Capital Prospective Payment Methodologies

Table IV presents a cross-sectional summary of hospital groupings by capital prospective payment methodology. This distribution is generated by our actuarial model.

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TABLE IV.— DISTRIBUTION BY METHOD OF PAYMENT (HOLD-HARMLESS/FULLY PROSPECTIVE) OF HOSPITALS RECEIVING CAPITAL PAYMENTS-ESTIMATE FOR FY 2001 PAYMENTS

	(1) Total No. of Hospitals	(2) Hold-harmless		(3) Percentage paid fully prospective rate
		Percentage paid hold-harmless (A)	Percentage paid fully federal (B)	
By Geographic Location:				
All hospitals	4,775	4.0	32.9	63.1
Large urban areas (populations over 1 million)	1,514	4.0	41.1	55.0
Other urban areas (populations of 1 million of fewer)	1,144	4.8	40.6	54.5
Rural areas	2,117	3.6	22.8	73.6
Urban hospitals	2,658	4.3	40.9	54.8
0-99 beds	646	5.9	33.7	60.4
100-199 beds	918	5.7	47.2	47.2
200-299 beds	542	3.7	41.9	54.4
300-499 beds	410	0.5	37.3	62.2
500 or more beds	142	2.1	39.4	58.5
Rural hospitals	2,117	3.6	22.8	73.6
0-49 beds	1,201	3.0	16.4	80.6
50-99 beds	547	4.8	28.2	67.1
100-149 beds	217	5.1	35.0	59.9
150-199 beds	85	2.4	28.2	69.4
200 or more beds	67	1.5	46.3	52.2
By Region:				
Urban by Region	2,658	4.3	40.9	54.8
New England	145	0.7	25.5	73.8
Middle Atlantic	407	2.7	34.6	62.7
South Atlantic	395	5.1	52.2	42.8
East North Central	453	3.8	30.2	66.0
East South Central	153	7.2	47.7	45.1
West North Central	180	5.6	37.2	57.2
West South Central	326	9.5	57.4	33.1
Mountain	123	2.4	52.0	45.5
Pacific	431	2.6	37.6	59.9
Puerto Rico	45	0.0	28.9	71.1
Rural by Region	2,117	3.6	22.8	73.6
New England	52	0.0	21.2	78.8
Middle Atlantic	78	3.8	20.5	75.6
South Atlantic	276	1.4	34.1	64.5
East North Central	280	2.5	17.9	79.6
East South Central	265	3.0	33.2	63.8
West North Central	489	3.1	14.5	82.4
West South Central	333	4.5	26.1	69.4
Mountain	200	8.5	16.0	75.5
Pacific	139	5.0	23.7	71.2
By Payment Classification:				
Large urban areas (populations over 1 million)	1,586	3.8	41.1	55.0
Other urban areas (populations of 1 million of fewer)	1,148	4.9	40.2	55.0
Rural areas	2,041	3.6	22.3	74.0
Teaching Status:				
Non-teaching	3,670	4.4	32.2	63.3
Fewer than 100 Residents	869	2.9	35.6	61.6
100 or more Residents	236	1.3	32.6	66.1
Disproportionate share hospitals (DSH):				
Non-DSH	2,974	4.1	28.6	67.2
Urban DSH:				
100 or more beds	1,371	3.8	43.3	53.0
Less than 100 beds	74	5.4	25.7	68.9
Rural DSH:				
Sole Community (SCH/EACH)	153	5.2	22.2	72.5
Referral Center (RRC/EACH)	54	1.9	53.7	44.4

TABLE IV.— DISTRIBUTION BY METHOD OF PAYMENT (HOLD-HARMLESS/FULLY PROSPECTIVE) OF HOSPITALS RECEIVING CAPITAL PAYMENTS-ESTIMATE FOR FY 2001 PAYMENTS

	(1) Total No. of Hospitals	(2) Hold-harmless		(3) Percentage paid fully prospective rate
		Percentage paid hold-harmless (A)	Percentage paid fully federal (B)	
Other Rural:				
100 or more beds	48	2.1	41.7	56.3
Less than 100 beds	101	2.0	21.8	76.2
Urban teaching and DSH:				
Both teaching and DSH	715	2.0	36.8	61.3
Teaching and no DSH	325	3.7	32.9	63.4
No teaching and DSH	730	5.8	47.8	46.4
No teaching and no DSH	964	5.1	40.9	54.0
Rural Hospital Types:				
Non special status hospitals	822	1.3	24.3	74.3
RRC/EACH	150	1.3	38.0	60.7
SCH/EACH	660	7.7	19.4	72.9
Medicare-dependent hospitals (MDH)	351	1.4	16.0	82.6
SCH, RRC and EACH	58	8.6	25.9	65.5
Type of Ownership:				
Voluntary	2,804	3.6	32.1	64.3
Proprietary	736	6.8	57.9	35.3
Government	1,211	3.4	19.9	76.7
Medicare Utilization as a Percent of Inpatient Days:				
0-25	366	4.4	28.1	67.5
25-50	1,818	3.9	35.3	60.8
50-65	1,882	4.1	31.8	64.1
Over 65	685	3.9	32.7	63.4

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As we explain in Appendix B of this proposed rule, we were not able to use 61 of the 4,836 hospitals in our database due to insufficient (missing or unusable) data. Consequently, the payment methodology distribution is based on 4,775 hospitals. These data should be fully representative of the payment methodologies that will be applicable to hospitals.

The cross-sectional distribution of hospital by payment methodology is presented by: (1) Geographic location; (2) region; and (3) payment classification. This provides an indication of the percentage of hospitals within a particular hospital grouping that will be paid under the fully prospective payment methodology and the hold-harmless payment methodology.

The percentage of hospitals paid fully Federal (100 percent of the Federal rate) as hold-harmless hospitals is expected to increase to 32.9 percent in FY 2001.

Table IV indicates that 63.1 percent of hospitals will be paid under the fully prospective payment methodology. (This figure, unlike the figure of 67 percent for low cost capital hospitals in the chart on ''Capital Transition Payment Methodology for FY 2001,'' in section VII.B.2. of this impact analysis takes into account the effects of redeterminations. In other words, this figure does not include low cost hospitals that, following a hospital-specific rate redetermination, are now paid under the hold-harmless methodology.) As expected, a relatively higher percentage of rural and governmental hospitals (74.0 percent and 76.7 percent, respectively by payment classification) are being paid under the fully prospective payment methodology. This is a reflection of their lower than average capital costs per case. In contrast, only 35.3 percent of proprietary hospitals are being paid under the fully prospective methodology. This is a reflection of their higher than average capital costs per case. (We found at the time of the August 30, 1991 final rule (56 FR 43430) that 62.7 percent of proprietary hospitals had a capital cost per case above the national average cost per case.)

D. Cross-Sectional Analysis of Changes in Aggregate Payments

We used our FY 2001 actuarial model to estimate the potential impact of our proposed changes for FY 2001 on total capital payments per case, using a universe of 4,775 hospitals. The individual hospital payment parameters are taken from the best available data, including: the January 1, 2000 update to the provider-specific file, cost report data, and audit information supplied by intermediaries. In Table V we present the results of the cross-sectional analysis using the results of our actuarial model and the aggregate impact of the proposed FY 2001 payment policies. Columns 3 and 4 show estimates of payments per case under our model for FY 2000 and FY 2001. Column 5 shows the total percentage change in payments from FY 2000 to FY 2001. Column 6 presents the percentage change in payments that can be attributed to Federal rate changes alone.

Federal rate changes represented in Column 6 include the 1.60 percent increase in the Federal rate, a 0.5 percent increase in case mix, changes in the adjustments to the Federal rate (for example, the effect of the new hospital wage index on the geographic adjustment factor), and reclassifications by the MGCRB. Column 5 includes the effects of the Federal rate changes represented in Column 6. Column 5 also reflects the effects of all other changes, including the change from 90 percent to 100 percent in the portion of the Federal rate for fully prospective hospitals, the hospital-specific rate update, changes in the proportion of new to total capital for hold-harmless hospitals, changes in old capital (for example, obligated capital put in use), hospital-specific rate redeterminations, and exceptions. The comparisons are provided by: (1) Geographic location, (2) region, and (3) payment classification.

The simulation results show that, on average, capital payments per case can be expected to increase 4.2 percent in FY 2001. The results show that the effect of the Federal rate change alone is to increase payments by 0.9 percent. In addition to the increase attributable to the Federal rate change, a 3.3 percent increase is attributable to the effects of all other changes.

Our comparison by geographic location shows an overall increase in payments to hospitals in all areas. This comparison also shows that urban and rural hospitals will experience slightly different rates of increase in capital payments per case (3.9 percent and 5.9 percent, respectively). This difference is due to the lower rate of increase for urban hospitals relative to rural hospitals (0.6 percent and 2.7 percent, respectively) from the Federal rate changes alone. Urban hospitals will gain approximately the same as rural hospitals (3.3 percent versus 3.2 percent, respectively) from the effects of all other changes.

All regions are estimated to receive increases in total capital payments per case, partly due to the increased share of payments that are based on the Federal rate (from 90 to 100 percent). Changes by region vary from a minimum of 2.6 percent increase (Middle Atlantic urban region) to a maximum of 7.5 percent increase (East North Central rural region).

By type of ownership, government hospitals are projected to have the largest rate of increase of total payment changes (5.6 percent, a 1.4 percent increase due to the Federal rate changes, and a 4.2 percent increase from the effects of all other changes). Payments to voluntary hospitals will increase 4.0 percent (a 0.9 percent increase due to Federal rate changes, and a 3.1 percent increase from the effects of all other changes) and payments to proprietary hospitals will increase 3.6 percent (a 0.4 percent increase due to Federal rate changes, and a 3.2 percent increase from the effects of all other changes).

Section 1886(d)(10) of the Act established the MGCRB. Hospitals may apply for reclassification for purposes of the standardized amount, wage index, or both and for purposes of DSH for FYs 1999 through 2001. Although the Federal capital rate is not affected, a hospital's geographic classification for purposes of the operating standardized amount does affect a hospital's capital payments as a result of the large urban adjustment factor and the disproportionate share adjustment for urban hospitals with 100 or more beds. Reclassification for wage index purposes affects the geographic adjustment factor, since that factor is constructed from the hospital wage index.

To present the effects of the hospitals being reclassified for FY 2001 compared to the effects of reclassification for FY 2000, we show the average payment percentage increase for hospitals reclassified in each fiscal year and in total. For FY 2001 reclassifications, we indicate those hospitals reclassified for standardized amount purposes only, for wage index purposes only, and for both purposes. The reclassified groups are compared to all other nonreclassified hospitals. These categories are further identified by urban and rural designation.

Hospitals reclassified for FY 2001 as a whole are projected to experience a 5.9 percent increase in payments (a 2.4 percent increase attributable to Federal rate changes and a 3.5 percent increase attributable to the effects of all other changes). Payments to nonreclassified hospitals will increase slightly less (4.2 percent) than reclassified hospitals (5.9 percent) overall. Payments to nonreclassified hospitals will increase less than reclassified hospitals from the Federal rate changes (0.9 percent compared to 2.4 percent), but they will gain about the same from the effects of all other changes (3.3 percent compared to 3.5 percent).

TABLE V.—COMPARISON OF TOTAL PAYMENTS PER CASE (FY 2000 PAYMENTS COMPARED TO FY 2001 PAYMENTS)

	Number of Hospitals	Average FY 2000 pay-ments/case	Average FY 2001 pay-ments/case	All Changes	Portion Attributable to Federal Rate Change
By Geographic Location:					
All hospitals	4,775	648	675	4.2	0.9
Large urban areas (populations over 1 million)	1,514	752	779	3.5	0.2
Other urban areas (populations of 1 million of fewer)	1,144	639	667	4.4	1.1
Rural areas	2,117	434	460	5.9	2.7
Urban hospitals	2,658	703	730	3.9	0.6
0-99 beds	646	503	525	4.3	1.3
100-199 beds	918	613	635	3.7	0.9
200-299 beds	542	671	697	4.0	0.7
300-499 beds	410	731	761	4.1	0.4
500 or more beds	142	912	944	3.6	0.2
Rural hospitals	2,117	434	460	5.9	2.7
0-49 beds	1,201	360	386	7.4	3.6
50-99 beds	547	408	432	5.9	2.8
100-149 beds	217	453	476	5.2	2.4
150-199 beds	85	473	501	6.0	2.7
200 or more beds	67	535	564	5.4	2.2
By Region:					
Urban by Region	2,658	703	730	3.9	0.6
New England	145	727	764	5.0	1.0
Middle Atlantic	407	772	793	2.6	-0.2
South Atlantic	395	682	705	3.4	0.7
East North Central	453	678	710	4.7	0.9
East South Central	153	645	664	2.9	-0.8
West North Central	180	694	727	4.7	1.2
West South Central	326	668	695	4.2	1.1
Mountain	123	672	703	4.6	1.0
Pacific	431	794	830	4.6	0.6
Puerto Rico	45	290	304	4.7	2.1
Rural by Region	2,117	434	460	5.9	2.7
New England	52	516	539	4.5	1.5
Middle Atlantic	78	460	487	6.1	2.5
South Atlantic	276	447	473	5.8	2.9
East North Central	280	444	478	7.5	3.0
East South Central	265	398	422	5.9	2.4
West North Central	489	425	448	5.5	3.0
West South Central	333	392	410	4.7	2.4
Mountain	200	458	482	5.3	3.0
Pacific	139	508	543	7.0	3.1
By Payment Classification:					
All hospitals	4,775	648	675	4.2	0.9
Large urban areas (populations over 1 million)	1,586	745	772	3.5	0.3
Other urban areas (populations of 1 million of fewer)	1,148	638	666	4.5	1.1
Rural areas	2,041	430	456	5.9	2.7
Teaching Status:					
Non-teaching	3,670	537	558	4.0	1.3
Fewer than 100 Residents	869	678	710	4.7	0.9
100 or more Residents	236	993	1,029	3.6	-0.1
Urban DSH:					
100 or more beds	1,371	743	773	4.0	0.6
Less than 100 beds	74	519	520	0.0	1.2
Rural DSH:					
Sole Community (SCH/EACH)	153	376	411	9.2	3.9
Referral Center (RRC/EACH)	54	494	512	3.5	1.3
Other Rural:					
100 or more beds	48	390	410	5.0	3.2
Less than 100 beds	101	346	372	7.5	3.9

TABLE V.—COMPARISON OF TOTAL PAYMENTS PER CASE
(FY 2000 PAYMENTS COMPARED TO FY 2001 PAYMENTS)

	Number of Hospitals	Average FY 2000 payments/case	Average FY 2001 payments/case	All Changes	Portion Attributable to Federal Rate Change
Urban teaching and DSH:					
Both teaching and DSH	715	816	849	4.1	0.5
Teaching and no DSH	325	708	740	4.5	0.5
No teaching and DSH	730	615	637	3.7	0.9
No teaching and no DSH	964	573	591	3.1	0.7
Rural Hospital Types:					
Non special status hospitals	822	382	406	6.3	3.3
RRC/EACH	150	499	525	5.3	2.1
SCH/EACH	660	421	451	7.0	2.8
Medicare-dependent hospitals (MDH)	351	358	387	8.0	3.5
SCH, RRC and EACH	58	523	539	3.1	1.8
Hospitals Reclassified by the Medicare Geographic Classification Review Board:					
Reclassification Status During FY00 and FY01:					
Reclassified During Both FY00 and FY01	381	550	575	4.6	1.3
Reclassified During FY01 Only	160	555	610	9.9	5.8
Reclassified During FY00 Only	144	568	567	-0.1	-2.8
FY01 Reclassifications:					
All Reclassified Hospitals	541	552	584	5.9	2.4
All Nonreclassified Hospitals	4,251	661	689	4.2	0.9
All Urban Reclassified Hospitals	93	719	760	5.7	1.4
Urban Nonreclassified Hospitals	2,540	703	730	3.8	0.5
All Reclassified Rural Hospitals	448	491	521	6.0	2.9
Rural Nonreclassified Hospitals	1,668	389	412	5.9	2.6
Other Reclassified Hospitals (Section 1886(D)(8)(B))	26	478	492	2.9	0.8

TABLE V.—COMPARISON OF TOTAL PAYMENTS PER CASE
(FY 2000 PAYMENTS COMPARED TO FY 2001 PAYMENTS)

	Number of Hospitals	Average FY 2000 payments/case	Average FY 2001 payments/case	All Changes	Portion Attributable to Federal Rate Change
Type of Ownership:					
Voluntary	2,804	663	690	4.0	0.9
Proprietary	736	631	654	3.6	0.4
Government	1,211	580	612	5.6	1.4
Medicare Utilization as a Percent of Inpatient Days:					
0-25	366	805	853	6.0	0.6
25-50	1,818	743	771	3.8	0.5
50-65	1,882	578	603	4.4	1.2

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Appendix B: Technical Appendix on the Capital Cost Model and Required Adjustments

Under section 1886(g)(1)(A) of the Act, we set capital prospective payment rates for FY 1992 through FY 1995 so that aggregate prospective payments for capital costs were projected to be 10 percent lower than the amount that would have been payable on a reasonable cost basis for capital-related costs in that year. To implement this requirement, we developed the capital acquisition model to determine the budget neutrality adjustment factor. Even though the budget neutrality requirement expired effective with FY 1996, we must continue to determine the recalibration and geographic reclassification budget neutrality adjustment factor and the reduction in the Federal and hospital-specific rates for exceptions payments. To determine these factors, we must continue to project capital costs and payments.

We used the capital acquisition model from the start of prospective payments for capital costs through FY 1997. We now have 7 years of cost reports under the capital prospective payment system. For FY 1998, we developed a new capital cost model to replace the capital acquisition model. This revised model makes use of the data from these cost reports.

The following cost reports are used in the capital cost model for this proposed rule: The December 31, 1999 update of the cost reports for PPS–IX (cost reporting periods beginning in FY 1992), PPS–X (cost reporting periods beginning in FY 1993), PPS–XI (cost reporting periods beginning in FY 1994), PPS–XII (cost reporting periods beginning in FY 1995), PPS–XIII (cost reporting periods beginning in FY 1996), PPS–XIV (cost reporting periods beginning in FY 1997), and PPS–XV (cost reporting periods beginning in FY 1998). In addition, to model payments, we use the January 1, 2000 update of the provider-specific file, and the March 1994 update of the intermediary audit file.

Since hospitals under alternative payment system waivers (that is, hospitals in Maryland) are currently excluded from the capital prospective payment system, we excluded these hospitals from our model.

We developed FY 1992 through FY 2000 hospital-specific rates using the provider-specific file and the intermediary audit file.

(We used the cumulative provider-specific file, which includes all updates to each hospital's records, and chose the latest record for each fiscal year.) We checked the consistency between the provider-specific file and the intermediary audit file. We ensured that increases in the hospital-specific rates were at least as large as the published updates (increases) for the hospital-specific rates each year. We were able to match hospitals to the files as shown in the following table:

Source	Number of hospitals
Provider-Specific File Only	129
Provider-Specific and Audit File	4,707
Total	4,836

Eighty-two of the 4,836 hospitals had unusable or missing data, or had no cost reports available. For 20 of the 82 hospitals, we were unable to determine a hospital-specific rate from the available cost reports. However, there was adequate cost information to determine that these hospitals were paid under the hold-harmless methodology. Since the hospital-specific rate is not used to determine payments for hospitals paid under the hold-harmless methodology, there was sufficient cost report information available to include these 20 hospitals in the analysis. We were able to estimate hospital-specific amounts for one additional hospital from the PPS–IX cost reports. Hence we were able to use 21 of the 82 hospitals. We used 4,775 hospitals for the analysis. Sixty-one hospitals could not be used in the analysis because of insufficient information. These hospitals account for less than 0.7 percent of admissions. Therefore, any effects from the elimination of their cost report data should be minimal.

We analyzed changes in capital-related costs (depreciation, interest, rent, leases, insurance, and taxes) reported in the cost reports. We found a wide variance among hospitals in the growth of these costs. For hospitals with more than 100 beds, the distribution and mean of these cost increases were different for large changes in bed-size (greater than ±20 percent). We also analyzed changes in the growth in old capital and new capital for cost reports that provided this information. For old capital, we limited the analysis to decreases in old capital. We did this since the opportunity for most hospitals to treat ''obligated'' capital put into service as old capital has expired. Old capital costs should decrease as assets become fully depreciated and as interest costs decrease as the loan is amortized.

The new capital cost model separates the hospitals into three mutually exclusive groups. Hold-harmless hospitals with data on old capital were placed in the first group. Of the remaining hospitals, those hospitals with fewer than 100 beds comprise the second group. The third group consists of all hospitals that did not fit into either of the first two groups. Each of these groups displayed unique patterns of growth in capital costs. We found that the gamma distribution is useful in explaining and describing the patterns of increase in capital costs. A gamma distribution is a statistical distribution that can be used to describe patterns of growth rates, with the greatest proportion of rates being at the low end. We use the gamma distribution to estimate individual hospital rates of increase as follows:

(1) For hold-harmless hospitals, old capital cost changes were fitted to a truncated gamma distribution, that is, a gamma distribution covering only the distribution of cost decreases. New capital costs changes were fitted to the entire gamma distribution, allowing for both decreases and increases.

(2) For hospitals with fewer than 100 beds (small), total capital cost changes were fitted to the gamma distribution, allowing for both decreases and increases.

(3) Other (large) hospitals were further separated into three groups:

- Bed-size decreases over 20 percent (decrease).
- Bed-size increases over 20 percent (increase).
- Other (no change).

Capital cost changes for large hospitals were fitted to gamma distributions for each bed-size change group, allowing for both decreases and increases in capital costs. We analyzed the probability distribution of increases and decreases in bed size for large hospitals. We found the probability somewhat dependent on the prior year change in bed size and factored this dependence into the analysis. Probabilities of bed-size change were determined. Separate sets of probability factors were calculated to reflect the dependence on prior year change in bed size (increase, decrease, and no change).

The gamma distributions were fitted to changes in aggregate capital costs for the entire hospital. We checked the relationship between aggregate costs and Medicare per discharge costs. For large hospitals, there was a small variance, but the variance was larger for small hospitals. Since costs are used only for the hold-harmless methodology and to determine exceptions, we decided to use the gamma distributions fitted to aggregate cost increases for estimating distributions of cost per discharge increases.

Capital costs per discharge calculated from the cost reports were increased by random numbers drawn from the gamma distribution to project costs in future years. Old and new capital were projected separately for hold-harmless hospitals. Aggregate capital per discharge costs were projected for all other hospitals. Because the distribution of increases in capital costs varies with changes in bed size for large hospitals, we first projected changes in bed size for large hospitals before drawing random numbers from the gamma distribution. Bed-size changes were drawn from the uniform distribution with the probabilities dependent on the previous year bed-size change. The gamma distribution has a shape parameter and a scaling parameter. (We used different parameters for each hospital group, and for old and new capital.)

We used discharge counts from the cost reports to calculate capital cost per discharge. To estimate total capital costs for FY 1999 (the MedPAR data year) and later, we use the number of discharges from the MedPAR data. Some hospitals had considerably more discharges in FY 1999 than in the years for which we calculated cost per discharge from the cost report data. Consequently, a hospital with few cost report discharges would have a high capital cost per discharge, since fixed costs would be allocated over only a few discharges. If discharges increase substantially, the cost per discharge would decrease because fixed costs would be allocated over more discharges. If the projection of capital cost per discharge is not adjusted for increases in discharges, the projection of exceptions would be overstated. We address this situation by recalculating the cost per discharge with the MedPAR discharges if the MedPAR discharges exceed the cost report discharges by more than 20 percent. We do not adjust for increases of less than 20 percent because we have not received all of the FY 1999 discharges, and we have removed some discharges from the analysis because they are statistical outliers. This adjustment reduces our estimate of exceptions payments, and consequently, the reduction to the Federal rate for exceptions is smaller. We will continue to monitor our modeling of exceptions payments and make adjustments as needed.

The average national capital cost per discharge generated by this model is the combined average of many randomly generated increases. This average must equal the projected average national capital cost per discharge, which we projected separately (outside this model). We adjusted the shape parameter of the gamma distributions so that the modeled average capital cost per discharge matches our projected capital cost per discharge. The shape parameter for old capital was not adjusted since we are modeling the aging of ''existing'' assets. This model provides a distribution of capital costs among hospitals that is consistent with our aggregate capital projections.

Once each hospital's capital-related costs are generated, the model projects capital payments. We use the actual payment parameters (for example, the case-mix index and the geographic adjustment factor) that are applicable to the specific hospital.

To project capital payments, the model first assigns the applicable payment methodology (fully prospective or hold-harmless) to the hospital as determined from the provider-specific file and the cost reports. The model simulates Federal rate payments using the assigned payment parameters and hospital-specific estimated outlier payments. The case-mix index for a hospital is derived from the FY 1999 MedPAR file using the FY 2001 DRG relative weights included in section VI. of the Addendum to this proposed rule. The case-mix index is increased each year after FY 1999 based on analysis of past experiences in case-mix increases. Based on analysis of recent case-mix increases, we estimate that case-mix will increase 0.5 percent in FY 2000. We project that case-mix will increase 0.5 percent in FY 2001. (Since we are using FY 1999 cases for our analysis, the FY 1999 increase in case-mix has no effect on projected capital payments.)

Changes in geographic classification and revisions to the hospital wage data used to establish the hospital wage index affect the geographic adjustment factor. Changes in the DRG classification system and the relative weights affect the case-mix index.

Section 412.308(c)(4)(ii) requires that the estimated aggregate payments for the fiscal year, based on the Federal rate after any changes resulting from DRG reclassifications and recalibration and the geographic adjustment factor, equal the estimated aggregate payments based on the Federal rate that would have been made without such changes. For FY 2000, the budget neutrality adjustment factors were 1.00142 for the national rate and 1.00134 for the Puerto Rico rate.

Since we implemented a separate geographic adjustment factor for Puerto Rico, we applied separate budget neutrality adjustments for the national geographic adjustment factor and the Puerto Rico geographic adjustment factor. We applied the same budget neutrality factor for DRG reclassifications and recalibration nationally and for Puerto Rico. Separate adjustments were unnecessary for FY 1998 and earlier since the geographic adjustment factor for Puerto Rico was implemented in FY 1998.

To determine the factors for FY 2001, we first determined the portions of the Federal national and Puerto Rico rates that would be paid for each hospital in FY 2001 based on its applicable payment methodology. Using our model, we then compared, separately for the national rate and the Puerto Rico rate, estimated aggregate Federal rate payments based on the FY 2000 DRG relative weights and the FY 2000 geographic adjustment factor to estimated aggregate Federal rate payments based on the FY 2000 relative weights and the FY 2001 geographic adjustment factor. In making the comparison, we held the FY 2001 Federal rate portion constant and set the other budget neutrality adjustment factor and the exceptions reduction factor to 1.00. To achieve budget neutrality for the changes in the national geographic adjustment factor, we applied an incremental budget neutrality adjustment of 0.99846 for FY 2001 to the previous cumulative FY 2000 adjustment of 1.00142, yielding a cumulative adjustment of 0.99988 through FY 2001. For the Puerto Rico geographic adjustment factor, we applied an incremental budget neutrality adjustment of 1.00312 for FY 2001 to the previous cumulative FY 2000 adjustment of 1.00134, yielding a cumulative adjustment of 1.00446 through FY 2001. We then compared estimated aggregate Federal rate payments based on the FY 2000 DRG relative weights and the FY 2001 geographic adjustment factors to estimated aggregate Federal rate payments based on the FY 2001 DRG relative weights and the FY 2001 geographic adjustment factors. The incremental adjustment for DRG classifications and changes in relative weights would be 1.00019 nationally and for Puerto Rico. The cumulative adjustments for DRG classifications and changes in relative weights and for changes in the geographic adjustment factors through FY 2001 would be 1.00007 nationally and 1.00465 for Puerto Rico. The following table summarizes the adjustment factors for each fiscal year:

BUDGET NEUTRALITY ADJUSTMENT FOR DRG RECLASSIFICATIONS AND RECALIBRATION AND THE GEOGRAPHIC ADJUSTMENT FACTORS

Fiscal year	National				Puerto Rico			
	Incremental adjustment			Cumulative	Incremental adjustment			Cumulative
	Geographic adjustment factor	DRG reclassifications and recalibration	Combined		Geographic adjustment factor	DRG reclassifications and recalibration	Combined	
1992				1.00000				
1993			0.99800	0.99800				
1994			1.00531	1.00330				
1995			0.99980	1.00310				
1996			0.99940	1.00250				
1997			0.99873	1.00123				
1998			0.99892	1.00015				1.00000
1999	0.99944	1.00335	1.00279	1.00294	0.99898	1.00335	1.00233	1.00233
2000	0.99857	0.99991	0.99848	1.00142	0.99910	0.99991	0.99901	1.00134
2001	0.99846	1.00019	0.99865	1.00007	1.00312	1.00019	1.00331	1.00465

The methodology used to determine the recalibration and geographic (DRG/GAF) budget neutrality adjustment factor is similar to that used in establishing budget neutrality adjustments under the prospective payment system for operating costs. One difference is that, under the operating prospective payment system, the budget neutrality adjustments for the effect of geographic reclassifications are determined separately from the effects of other changes in the hospital wage index and the DRG relative weights. Under the capital prospective payment system, there is a single DRG/GAF budget neutrality adjustment factor (the national rate and the Puerto Rico rate are determined separately) for changes in the geographic adjustment factor (including geographic reclassification) and the DRG relative weights. In addition, there is no adjustment for the effects that geographic reclassification has on the other payment parameters, such as the payments for serving low-income patients or the large urban add-on payments.

In addition to computing the DRG/GAF budget neutrality adjustment factor, we used the model to simulate total payments under the prospective payment system.

Additional payments under the exceptions process are accounted for through a reduction in the Federal and hospital-specific rates. Therefore, we used the model to calculate the exceptions reduction factor. This exceptions reduction factor ensures that aggregate payments under the capital prospective payment system, including exceptions payments, are projected to equal the aggregate payments that would have been made under the capital prospective payment system without an exceptions process. Since changes in the level of the payment rates change the level of payments under the exceptions process, the exceptions reduction factor must be determined through iteration.

In the August 30, 1991 final rule (56 FR 43517), we indicated that we would publish each year the estimated payment factors generated by the model to determine payments for the next 5 years. The table below provides the actual factors for FYs 1992 through 2000, the proposed factors for FY 2001, and the estimated factors that would be applicable through FY 2005. We caution that these are estimates for FYs 2001 and later, and are subject to revisions resulting from continued methodological refinements, receipt of additional data, and changes in payment policy. We note that in making these projections, we have assumed that the cumulative national DRG/GAF budget neutrality adjustment factor will remain at 1.00007 (1.00465 for Puerto Rico) for FY 2001 and later because we do not have sufficient information to estimate the change that will occur in the factor for years after FY 2001.

The projections are as follows:

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Fiscal Year	Update Factor	Exceptions Reduction Factor	Budget Neutrality Factor	DRG/GAF Adjustment Factor[1]	Outlier Adjustment Factor	Federal Rate Adjustment	Federal Rate (after outlier) reduction)
1992 .	N/A	0.9813	0.9602		.9497		415.59
1993 .	6.07	.9756	.9162	.9980	.9496		417.29
1994 .	3.04	.9485	.8947	1.0053	.9454	.9260[2]	378.34
1995 .	3.44	.9734	.8432	.9998	.9414		376.83
1996 .	1.20	.9849	N/A	.9994	.9536	.9972[3]	461.96
1997 .	0.70	.9358	N/A	.9987	.9481		438.92
1998 .	0.90	.9659	N/A	.9989	.9382	.8222[4]	371.51
1999 .	0.10	.9783	N/A	1.0028	.9392		378.10
2000 .	0.30	.9730	N/A	.9985	.9402		377.03
2001 .	0.90	.9796	N/A	.9987	.9416		383.06
2002 .	0.80	1.0000[6]	N/A	1.0000[5]	.9416[5]		394.17
2003 .	0.70	1.0000[6]	N/A	1.0000	.9416	1.0255[4]	407.07
2004 .	0.70	1.0000[6]	N/A	1.0000	.9416		409.92
2005 .	0.80	1.0000[6]	N/A	1.0000	.9416		413.19

[1]Note: The incremental change over the previous year.

[2]Note: OBRA 1993 adjustment.

[3]Note: Adjustment for change in the transfer policy.

[4]Note: Balanced Budget Act of 1997 adjustment.

[5]Note: Future adjustments are, for purposes of this projection, assumed to remain at the same level.

[6]Note: We are unable to estimate exceptions payments for the year under the special exceptions provision (§ 412.348(g) of the regulations) because the regular exceptions provision (§ 412.348(e)) expires.

APPENDIX C—REPORT TO CONGRESS

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

APR 17 2000

The Honorable Albert Gore, Jr.
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Section 1886(e)(3) of the Social Security Act (the Act) requires me to report to Congress the initial estimate of the applicable percentage increase in hospital inpatient payment rates for fiscal year (FY) 2001 that I will recommend for hospitals subject to the Medicare prospective payment system (PPS) and for hospitals and units excluded from PPS. This submission constitutes the required report.

Current law mandates, and the President's FY 2001 budget includes, an update for PPS hospitals, except sole community hospitals (SCHs), equal to the market basket minus 1.1 percentage points. The update for SCHs in current law and the President's 2001 budget is equal to the market basket rate of increase. The President's FY 2001 budget estimated the PPS market basket rate of increase for FY 2001 to be 3.2 percent. Based on this estimate, we recommend an update for SCHs of 3.2 percent and for other hospitals in both large urban and other areas of 2.1 percent.

SCHs are the sole source of care in their area and are afforded special payment protection in order to maintain access to services for Medicare beneficiaries. Medicare-dependent, small rural hospitals (MDHs) are a major source of care for Medicare beneficiaries in their area and are afforded special payment protection in order to maintain access to services for beneficiaries. SCHs and MDHs are PPS hospitals. However, SCHs are paid the higher of a hospital-specific rate or the Federal PPS rate, and MDHs are paid the Federal PPS rate, or, if their hospital-specific rate exceeds the Federal PPS rate, the Federal rate plus 50 percent of the difference between the hospital-specific rate and the Federal rate. We recommend an update of 3.2 percent to the SCH hospital-specific rate and 2.1 percent to the MDH hospital-specific rate.

Hospitals and distinct part hospital units excluded from PPS are paid based on their reasonable costs subject to a limit under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Current law mandates that the update for all hospitals and distinct part units excluded from PPS equals the rate of increase in the excluded hospital market basket less a percentage between 0 and 2.5 percentage points, depending on the hospital's costs in relation to its limit, or 0 if costs do not exceed two-thirds of the limit. The President's FY 2001 budget incorporates an increase to the TEFRA limit using

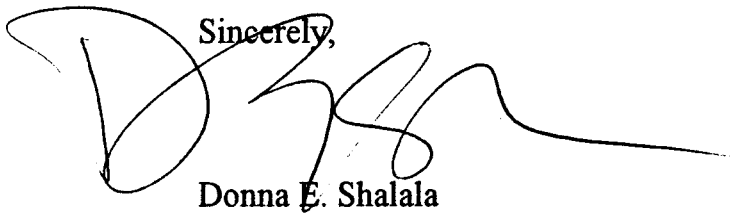
3.2 percent for the excluded hospital market basket increase. Therefore, depending on the hospital's costs in relation to its limit, the update would be the market basket increase minus a percentage between 0 and 2.5 percentage points, or 0, resulting in an increase in the TEFRA limits of between .7 and 3.2 percent, or 0.

My recommendation for the updates is based on cost projections used in the President's FY 2001 budget. A final recommendation on the appropriate percentage increases for FY 2001 will be made nearer the beginning of the new Federal fiscal year based on the most current market basket projection available at that time. The final recommendation will incorporate our analysis of the latest of all relevant factors, including recommendations by the Medicare Payment Advisory Commission.

Section 1886(d)(4)(C)(iv) of the Act also requires that I include in my report recommendations with respect to adjustments to the diagnosis-related group (DRG) weighting factors. At this time, I do not anticipate recommending any adjustment to the DRG weighting factors for FY 2001.

I am pleased to provide this recommendation to you. I am also sending a copy of this letter to the Speaker of the House of Representatives.

Sincerely,



Donna E. Shalala

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

APR 17 2000

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Section 1886(e)(3) of the Social Security Act (the Act) requires me to report to Congress the initial estimate of the applicable percentage increase in hospital inpatient payment rates for fiscal year (FY) 2001 that I will recommend for hospitals subject to the Medicare prospective payment system (PPS) and for hospitals and units excluded from PPS. This submission constitutes the required report.

Current law mandates, and the President's FY 2001 budget includes, an update for PPS hospitals, except sole community hospitals (SCHs), equal to the market basket minus 1.1 percentage points. The update for SCHs in current law and the President's 2001 budget is equal to the market basket rate of increase. The President's FY 2001 budget estimated the PPS market basket rate of increase for FY 2001 to be 3.2 percent. Based on this estimate, we recommend an update for SCHs of 3.2 percent and for other hospitals in both large urban and other areas of 2.1 percent.

SCHs are the sole source of care in their area and are afforded special payment protection in order to maintain access to services for Medicare beneficiaries. Medicare-dependent, small rural hospitals (MDHs) are a major source of care for Medicare beneficiaries in their area and are afforded special payment protection in order to maintain access to services for beneficiaries. SCHs and MDHs are PPS hospitals. However, SCHs are paid the higher of a hospital-specific rate or the Federal PPS rate, and MDHs are paid the Federal PPS rate, or, if their hospital-specific rate exceeds the Federal PPS rate, the Federal rate plus 50 percent of the difference between the hospital-specific rate and the Federal rate. We recommend an update of 3.2 percent to the SCH hospital-specific rate and 2.1 percent to the MDH hospital-specific rate.

Hospitals and distinct part hospital units excluded from PPS are paid based on their reasonable costs subject to a limit under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). Current law mandates that the update for all hospitals and distinct part units excluded from PPS equals the rate of increase in the excluded hospital market basket less a percentage between 0 and 2.5 percentage points, depending on the hospital's costs in relation to its limit, or 0 if costs do not exceed two-thirds of the limit. The

Page 2 - The Honorable J. Dennis Hastert

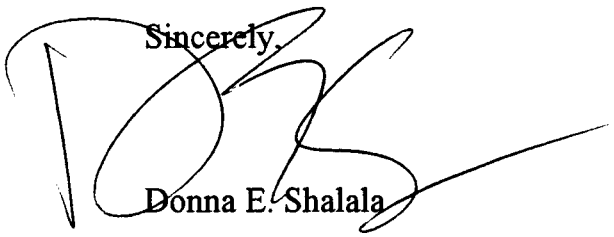
President's FY 2001 budget incorporates an increase to the TEFRA limit using 3.2 percent for the excluded hospital market basket increase. Therefore, depending on the hospital's costs in relation to its limit, the update would be the market basket increase minus a percentage between 0 and 2.5 percentage points, or 0, resulting in an increase in the TEFRA limits of between .7 and 3.2 percent, or 0.

My recommendation for the updates is based on cost projections used in the President's FY 2001 budget. A final recommendation on the appropriate percentage increases for FY 2001 will be made nearer the beginning of the new Federal fiscal year based on the most current market basket projection available at that time. The final recommendation will incorporate our analysis of the latest of all relevant factors, including recommendations by the Medicare Payment Advisory Commission.

Section 1886(d)(4)(C)(iv) of the Act also requires that I include in my report recommendations with respect to adjustments to the diagnosis-related group (DRG) weighting factors. At this time, I do not anticipate recommending any adjustment to the DRG weighting factors for FY 2001.

I am pleased to provide this recommendation to you. I am also sending a copy of this letter to the President of the Senate.

Sincerely,



Donna E. Shalala

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Appendix D: Recommendation of Update Factors for Operating Cost Rates of Payment for Inpatient Hospital Services

I. Background

Several provisions of the Act address the setting of update factors for inpatient services furnished in FY 2001 by hospitals subject to the prospective payment system and by hospitals or units excluded from the prospective payment system. Section 1886(b)(3)(B)(i)(XVI) of the Act sets the FY 2001 percentage increase in the operating cost standardized amounts equal to the rate of increase in the hospital market basket minus 1.1 percent for prospective payment hospitals in all areas. Section 1886(b)(3)(B)(iv) of the Act sets the FY 2001 percentage increase in the hospital-specific rates applicable to sole community and Medicare-dependent, small rural hospitals equal to the rate set forth in section 1886(b)(3)(B)(i) of the Act. For Medicare-dependent, small rural hospitals, the percentage increase is the same update factor as all other hospitals subject to the prospective payment system, or the rate of increase in the market basket minus 1.1 percentage points. Section 406 of Public Law 106–113 amended section 1886(b)(3)(B)(i) of the Act to provide that, for sole community hospitals, the rate of increase in the hospital-specific rates for FY 2001 only is equal to the market basket percentage increase. Prior to FY 2001, sole community hospitals were subject to the same percentage increase to their hospital-specific rates as all other hospitals subject to the prospective payment system set forth in section 1886(b)(3)(B)(i) of the Act.

Under section 1886(b)(3)(B)(ii) of the Act, the FY 2001 percentage increase in the rate-of-increase limits for hospitals and units excluded from the prospective payment system ranges from the percentage increase in the excluded hospital market basket less a percentage between 0 and 2.5 percentage points, depending on the hospital's or unit's costs in relation to its limit for the most recent cost reporting period for which information is available, or 0 percentage point if costs do not exceed two-thirds of the limit.

In accordance with section 1886(d)(3)(A) of the Act, we are proposing to update the standardized amounts, the hospital-specific rates, and the rate-of-increase limits for hospitals and units excluded from the prospective payment system as provided in section 1886(b)(3)(B) of the Act. Based on the first quarter 2000 forecast of the FY 2001 market basket increase of 3.1 percent for hospitals and units subject to the prospective payment system, the proposed update to the standardized amounts is 2.0 percent (that is, the market basket rate of increase minus 1.1 percent percentage points) for hospitals in both large urban and other areas. The proposed update to the hospital-specific rate applicable to Medicare-dependent, small rural hospitals is also 2.0 percent. The proposed update to the hospital-specific rate applicable to sole community hospitals is 3.1 percent. The proposed update for hospitals and units excluded from the prospective payment system would range from the percentage increase in the excluded hospital market basket (currently estimated at 3.1 percent) minus a percentage between 0 and 2.5 percentage points, or 0 percentage point, resulting in an increase in the rate-of-increase limit between 0.6 and 3.1 percent, or 0 percent.

Section 1886(e)(4) of the Act requires that the Secretary, taking into consideration the recommendations of the Medicare Payment Advisory Commission (MedPAC), recommend update factors for each fiscal year that take into account the amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality. Under section 1886(e)(5) of the Act, we are required to publish the update factors recommended under section 1886(e)(4) of the Act. Accordingly, this appendix provides the recommendations of appropriate update factors and the analysis underlying our recommendations.

In its March 1, 2000 report, MedPAC did not make a specific update recommendation for FY 2001 payments for Medicare acute inpatient hospitals. However, at its April 13, 2000 public meeting, MedPAC announced that it was recommending a combined update between 3.5 percent and 4.0 percent for operating and capital-related payments for FY 2001. This recommendation is higher than the current law amount as prescribed by Public Law 105–33 and proposed in this rule. Because of the timing of the announcement and our need for ample time to perform a proper analysis of the recommendation, we will address the comparison of HCFA's update recommendation and MedPAC's update recommendation in the FY 2001 final rule in August 2000 when we will have had the opportunity to review the data analyses that substantiate MedPAC's recommendation.

We describe the basis for our FY 2001 update recommendation (Table 1) in section II. of this Appendix.

II. Secretary's Recommendations

Under section 1886(e)(4) of the Act, we are recommending that an appropriate update factor for the standardized amounts is 2.0 percentage points for hospitals located in large urban and other areas. We are also recommending an update of 2.0 percentage points to the hospital-specific rate for Medicare-dependent, small rural hospitals. In addition, we are recommending an update of 3.1 percentage points to the hospital-specific rate for sole community hospitals. We believe these recommended update factors would ensure that Medicare acts as a prudent purchaser and provide incentives to hospitals for increased efficiency, thereby contributing to the solvency of the Medicare Part A Trust Fund.

We recommend that hospitals excluded from the prospective payment system receive an update of between 0.6 and 3.1 percentage points, or 0 percentage points. The update for excluded hospitals and units is equal to the increase in the excluded hospital operating market basket less a percentage between 0 and 2.5 percentage points, or 0 percentage points, depending on the hospital's or unit's costs in relation to its rate-of-increase limit for the most recent cost reporting period for which information is available. The market basket rate of increase for excluded hospitals and units is currently forecast at 3.1 percent.

Our update recommendation of 2.0 percent (market basket increase minus 1.1 percent) for prospective payment system operating costs standardized amounts is supported by the following analyses that measure changes in hospital productivity, scientific and technological advances, practice pattern changes, and changes in case-mix:

A. Productivity

Service level productivity is defined as the ratio of total service output to full-time equivalent employees (FTEs). While we recognize that productivity is a function of many variables (for example, labor, nonlabor material, and capital inputs), we use a labor productivity measure since this update framework applies to operating payment. To recognize that we are apportioning the short-run output changes to the labor input and not considering the nonlabor inputs, we weight our productivity measure for operating costs by the share of direct labor services in the market basket to determine the expected effect on cost per case.

Our recommendation for the service productivity component is based on historical trends in productivity and total output for both the hospital industry and the general economy, and projected levels of future hospital service output. MedPAC's predecessor, the Prospective Payment Assessment Commission (ProPAC), estimated cumulative service productivity growth to be 4.9 percent from 1985 through 1989, or 1.2 percent annually. At the same time, ProPAC estimated total output growth at 3.4 percent annually, implying a ratio of service productivity growth to output growth of 0.35.

Since it is not possible at this time to develop a productivity measure specific to Medicare patients, we examined productivity (output per hour) and output (gross domestic product) for the economy. Depending on the exact time period, annual changes in productivity range from 0.3 to 0.35 percent of the change in output (that is, a 1.0 percent increase in output would be correlated with a 0.3 to 0.35 percent change in output per hour).

Under our framework, the recommended update is based in part on expected productivity—that is, projected service output during the year, multiplied by the historical ratio of service productivity to total service output, multiplied by the share of labor in total operating inputs, as calculated in the hospital market basket. This method estimates an expected labor productivity improvement in the same proportion to expected total service growth that has occurred in the past and assumes that, at a minimum, growth in FTEs changes proportionally to the growth in total service output. Thus, the recommendation allows for unit productivity to be smaller than the historical averages in years that output growth is relatively low and larger in years that output growth is higher than the historical averages. Based on the above estimates from both the hospital industry and the economy, we have chosen to employ the

range of ratios of productivity change to output change of 0.30 to 0.35.

The expected change in total hospital service output is the product of projected growth in total admissions (adjusted for outpatient usage), projected real case-mix growth, expected quality-enhancing intensity growth, and net of expected decline in intensity due to reduction of cost-ineffective practice. Case-mix growth and intensity numbers for Medicare are used as proxies for those of the total hospital, since case-mix increases (used in the intensity measure as well) are unavailable for non-Medicare patients. Thus, expected output growth is simply the sum of the expected change in intensity (0.0 percent), projected admissions change (1.6 percent for FY 2001), and projected real case-mix growth (0.5 percent), or 2.1 percent. The share of direct labor services in the market basket (consisting of wages, salaries, and employee benefits) is 61.4 percent.

Multiplying the expected change in total hospital service output (2.1 percent) by the ratio of historical service productivity change to total service growth of 0.30 to 0.35 and by the direct labor share percentage 61.4, provides our productivity standard of −0.5 to −0.4 percent.

B. Intensity

We base our intensity standard on the combined effect of three separate factors: changes in the use of quality enhancing services, changes in the use of services due to shifts in within-DRG severity, and changes in the use of services due to reductions of cost-ineffective practices. For FY 2001, we recommend an adjustment of 0.0 percent. The basis of this recommendation is discussed below.

We have no empirical evidence that accurately gauges the level of quality-enhancing technology changes. A study published in the Winter 1992 issue of the *Health Care Financing Review,* ''Contributions of case mix and intensity change to hospital cost increases'' (pp. 151–163), suggests that one-third of the intensity change is attributable to high-cost technology. The balance was unexplained but the authors speculated that it is attributable to fixed costs in service delivery.

Typically, a specific new technology increases cost in some uses and decreases cost in other uses. Concurrently, health status is improved in some situations while in other situations it may be unaffected or even worsened using the same technology. It is difficult to separate out the relative significance of each of the cost-increasing effects for individual technologies and new technologies.

Other things being equal, per-discharge fixed costs tend to fluctuate in inverse proportion to changes in volume. Fixed costs exist whether patients are treated or not. If volume is declining, per-discharge fixed costs will rise, but the reverse is true if volume is increasing.

Following methods developed by HCFA's Office of the Actuary for deriving hospital output estimates from total hospital charges, we have developed Medicare-specific intensity measures based on a 5-year average using FYs 1995 through 1999 MedPAR billing data. Case-mix constant intensity is calculated as the change in total Medicare charges per discharge adjusted for changes in the average charge per unit of service as measured by the CPI for hospital and related services and changes in real case-mix. Thus, in order to measure changes in intensity, one must measure changes in real case-mix.

For FYs 1995 through 1999, observed case-mix index change ranged from a low of −0.3 percent to a high of 1.7 percent, with a 5-year average change of 0.6 percent. Based on evidence from past studies of case-mix change, we estimate that real case-mix change fluctuates between 1.0 and 1.4 percent and the observed values generally fall in this range, although some years the figures fall outside this range. The average percentage change in charge per discharge was 3.6 percent and the average annual change in the CPI for hospital and related services was 4.1 percent. Dividing the change in charge per discharge by the quantity of the real case-mix index change and the CPI for hospital and related services yields an average annual change in intensity of −1.9 percent. Assuming the technology/fixed cost ratio still holds (.33), technology would account for a −0.6 percent annual decline while fixed costs would account for a −1.3 percent annual decline. The decline in fixed costs per discharge makes intuitive sense as volume, measured by total discharges, has increased during the period. In the past, we have not recommended a negative intensity adjustment. Although we are not recommending a negative adjustment for FY 2001, we are reflecting the possible range that such a negative adjustment could span, based on our analysis. Accordingly, for FY 2001, we are recommending an intensity adjustment between 0 percent and −0.6 percent.

C. Change in Case-Mix

Our analysis takes into account projected changes in case-mix, adjusted for changes attributable to improved coding practices. For our FY 2001 update recommendation, we are projecting a 0.5 percent increase in the case-mix index. We define real case-mix as actual changes in the mix (and resources requirements) of Medicare patients as opposed to changes in coding behavior that results in assignment of cases to higher weighted DRGS, but do not reflect greater resource requirements. Unlike in past years, where we differentiated between ''real'' case-mix increase and increases attributable to changes in coding behavior, we do not feel changes in coding behavior will impact the overall case-mix in FY 2001. As such for FY 2001, we estimate that real case-mix is equal to projected change in case-mix. Thus, we are recommending a 0.0 adjustment for case-mix.

D. Effect of FY 1999 DRG Reclassification and Recalibration

We estimate that DRG reclassification and recalibration for FY 1999 resulted in a 0.0 percent change in the case-mix index when compared with the case-mix index that would have resulted if we had not made the reclassification and recalibration changes to the GROUPER.

E. Forecast Error Correction

We make a forecast error correction if the actual market basket changes differ from the forecasted market basket by 0.25 percentage points or more. There is a 2-year lag between the forecast and the measurement of forecast error. Our update framework for FY 2001 does not reflect a forecast error correction because, for FY 1999, there was less than a 0.25 percentage point difference between the actual market basket and the forecasted market basket.

As we explained in section I. of this Appendix, a comparison of our update recommendation to MedPAC's recommendation is unavailable for this proposed rule. MedPAC did not announce its recommendation for a combined update of between 3.5 percent and 4.0 percent for operating and capital-related payments for FY 2001 until its April 13, 2000 public meeting. This recommendation is higher than the current law amount as prescribed by Public Law 105–33 and proposed in this rule. Because of the timing of the announcement and our need for ample time to perform a proper analysis of the recommendation, we will address the comparison of HCFA's update recommendation and MedPAC's update recommendation in the FY 2001 final rule in August 2000 when we will have had the opportunity to review the data analyses that substantiate MedPAC's recommendation. The following is a summary of the update range supported by our analyses:

TABLE 1.—HHS' FY 2001 UPDATE RECOMMENDATION

Market basket	MB
Policy Adjustments Factors:	
Productivity	−0.5 to −0.4
Intensity	0.0 to −0.6
Subtotal	−0.5 to −1.0
Case-Mix Adjustment Factors:	
Projected Case-Mix Change	−0.5
Real Across DRG Change	0.5
Subtotal	0.0
Effect of 1999 Reclassification and Recalibration	0.0
Forecast Error Correction	0.0
Total Recommended Update	MB −0.5 to MB −1.0

Consistent with current law, we are recommending an update of market basket increase minus 1.1 percentage points (or 2.0 percent). We note that this approximates the lower bound of the range suggested by our framework when accounting for a negative intensity change.

For FY 2001, we believe that a 2.0 update factor appropriately reflects current trends in health care delivery, including the recent decreases in the use of hospital inpatient services and the corresponding increase in the use of hospital outpatient and postacute care services. We also recommend that the hospital-specific rates applicable to Medicare-dependent, small rural hospitals be increased by the same update, 2.0 percentage points. Furthermore, we recommend that the hospital-specific rates applicable to sole community hospitals be increased by an update of 3.1 percentage points.

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Federal Register

Friday,
May 5, 2000

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To List the Alabama Sturgeon as Endangered; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF56

Endangered and Threatened Wildlife and Plants; Final Rule To List the Alabama Sturgeon as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the Fish and Wildlife Service (Service), determine the Alabama sturgeon (*Scaphirhynchus suttkusi*) to be endangered under the authority of the Endangered Species Act of 1973, as amended (Act). The Alabama sturgeon's historic range once included about 1,600 kilometers (km) (1,000 miles (mi)) of the Mobile River system in Alabama (Black Warrior, Tombigbee, Alabama, Coosa, Tallapoosa, Mobile, Tensaw, and Cahaba Rivers) and Mississippi (Tombigbee River). Since 1985, all confirmed captures have been from a short, free-flowing reach of the Alabama River below Millers Ferry and Claiborne Locks and Dams in Clarke, Monroe, and Wilcox Counties, Alabama. The decline of the Alabama sturgeon is attributed to over-fishing, loss and fragmentation of habitat as a result of historical navigation-related development, and water quality degradation. Current threats primarily result from its reduced range and its small population numbers. These threats are compounded by a lack of information on Alabama sturgeon habitat and life history requirements. This action extends the Act's protection to the Alabama sturgeon.

EFFECTIVE DATE: June 5, 2000.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Mississippi Field Office, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Paul Hartfield at the above address (telephone 601/321–1125; facsimile 601/965–4340).

SUPPLEMENTARY INFORMATION:

Background

The Alabama sturgeon (*Scaphirhynchus suttkusi*) is a small, freshwater sturgeon that was historically found only in the Mobile River Basin of Alabama and Mississippi. This sturgeon is an elongate, slender fish growing to about 80 centimeters (cm) (31 inches (in)) in length. A mature fish weighs 1 to 2 kilograms (kg) (2 to 4 pounds (lb)). The head is broad and flattened shovel-like at the snout. The mouth is tubular and protrusive. There are four barbels (whisker-like appendages used to find prey) on the bottom of the snout, in front of the mouth. Bony plates cover the head, back, and sides. The body narrows abruptly to the rear, forming a narrow stalk between the body and tail. The upper lobe of the tail fin is elongated and ends in a long filament. Characters used to distinguish the Alabama sturgeon from the closely related shovelnose sturgeon (*Scaphirhynchus platorynchus*) include larger eyes, orange color, number of dorsal plates, dorsal fin ray numbers, and the absence of spines on the tip of its snout and in front of its eyes.

The earliest specimens of Alabama sturgeon in museum collections date from about 1880. The first mention of the fish in the scientific literature, however, was not until 1955, when a report of the collection of a single specimen from the Tombigbee River was published by Chermock. In 1976, Ramsey referred to the Alabama sturgeon as the Alabama shovelnose sturgeon, noting that it probably was distinct from the shovelnose sturgeon, which is found in the Mississippi River Basin and was also historically known from the Rio Grande. In 1991, Williams and Clemmer formally described the species based on a statistical comparison of relative sizes and numbers of morphological structures of Alabama and shovelnose sturgeons.

The methods used by Williams and Clemmer (1991) to justify species designation for the Alabama sturgeon have been criticized in unpublished manuscripts (*e.g.,* Blanchard and Bartolucci 1994, Howell *et al.* 1995) and in one published paper (Mayden and Kuhajda 1996). The criticisms included identification of a variety of statistical and methodological errors and limitations (*e.g.,* small sample size, clinal variation (characteristics of a species correlated with changing ecological variables), allometric growth (growth of parts of an organism at different rates and at different times), inappropriate statistical tests, and others). Bartolucci *et al.* (1998), using Bayesian Analysis statistical methodology, found no significant differences in multivariate means of measurement data, taken from Williams and Clemmer (1991).

Mayden and Kuhajda (1996) reevaluated the morphological distinctiveness of the Alabama sturgeon using improved statistical tests and new data derived from examination of additional shovelnose sturgeon specimens from a larger geographic area. Mayden and Kuhajda (1996) identified eight new diagnostic characters, found little evidence of geographic clinal variation in these diagnostic features, and concluded that the Alabama sturgeon was a distinct and valid species.

Attempts to clarify taxonomic relationships of the Alabama sturgeon to other species of *Scaphirhynchus* using DNA sequencing have met with limited success. In an unpublished report, Schill and Walker (1994) used tissue samples from an Alabama sturgeon collected in 1993 to compare the three nominal *Scaphirhynchus* species. Based on estimates of sequence divergence at the mitochondrial cytochrome *b* locus, Alabama, shovelnose, and pallid sturgeons (*S. albus*) were indistinguishable. However, other studies have also found that the cytochrome *b* locus was not useful for discriminating among some congeneric fish species that were otherwise distinguished by accepted morphological, behavioral, and other characteristics (Campton *et al.* 1995).

In two unpublished reports for the U.S. Army Corps of Engineers (Corps) and us by Genetic Analyses, Inc. (1994, 1995), nuclear DNA fragments were compared among the three *Scaphirhynchus* species. The three Alabama sturgeon specimens examined were genetically divergent from pallid and shovelnose sturgeons, while there were no observed differences of DNA fragments between the pallid and shovelnose sturgeons. However, the 1995 study also found that two of the Alabama sturgeon differed substantially from the third, noted the small number of samples of Alabama sturgeon, and recommended additional studies to examine genetic diversity within the Alabama sturgeon population.

A comparative study of the mitochondrial DNA (mtDNA) d-loop of *Scaphirhynchus* species by Campton *et al.* (1995) provided genetic data consistent with the taxonomic distinction of the Alabama sturgeon from the shovelnose sturgeon. The d-loop is considered to be a rapidly evolving part of the genome. Campton *et al.* (1995) found that haplotype (genetic markers) frequencies of the d-loop from the three *Scaphirhynchus* species were significantly different, with the Alabama sturgeon having a unique haplotype. However, the relative genetic differences among the three species were small, suggesting that the rate of genetic change in the genus is relatively slow and/or they have only recently diverged. The genetic similarity

between the pallid and shovelnose sturgeon has been suggested to be due to interbreeding that has recently occurred as a result of niche overlap resulting from widespread habitat losses (Carlson *et al.* 1985, Keenlyne *et al.* 1994).

During open comment periods for the proposed rule, we received several reports and letters containing new data from mtDNA analysis of *Scaphirhynchus.* Both Campton *et al.* (1999) and Mayden *et al.* (1999) identified a haplotype common to the three Alabama sturgeon sampled that was not observed in a much larger sample (>70) of pallid and shovelnose sturgeons. Wells (*in litt.* 1999) also conducted mtDNA analysis on eight shovelnose sturgeon and identified several new haplotypes not found in previous studies. He did not find the haplotype unique to Alabama sturgeon in these shovelnose sturgeon. Fain *et al.* (2000) found that the mitochondrial cytochrome *b* gene was not useful to distinguish species within *Scaphirhynchus* or two other species groups within the sturgeon genus *Acipenser.* Campton *et al.* (in press) submitted a peer-reviewed report supporting species recognition of all three species within *Scaphirhynchus,* based on current morphological, biogeographic, and molecular genetic evidence.

We acknowledge that there is some disagreement concerning the Alabama sturgeon's taxonomic status. However, the description of the Alabama sturgeon (*Scaphirhynchus suttkusi*) complies with the rules of the *International Code of Zoological Nomenclature* (§ 17.11(b)). Recognition of Alabama sturgeon as a species (Williams and Clemmer 1991) is supported by Mayden and Kuhajda (1996), as well as by several recent unpublished genetic studies (Campton *et al.* 1995, 1999, in press; Genetic Analyses, Inc. 1994, 1995; Mayden *et al.* 1999). Furthermore, the Alabama sturgeon is nationally and internationally recognized as a valid species (see response to Issue 2''), and will continue to be so recognized unless overturned at some future date by the scientific community through the formal peer review and publication process.

Very little is known of the life history, habitat, or other ecological requirements of the Alabama sturgeon. Observations by Burke and Ramsey (1985) indicate the species prefers relatively stable gravel and sand substrates in flowing river channels. Verified captures of Alabama sturgeon have primarily occurred in large channels of big rivers; however, at least two historic records were from oxbow lakes (Williams and Clemmer 1991). Examination of stomach contents of museum and captured specimens show that these sturgeon are opportunistic bottom feeders, preying primarily on aquatic insect larvae (Mayden and Kuhajda 1996). Mayden and Kuhajda (1996) deduced other aspects of Alabama sturgeon life history by a review of spawning habits of its better known congener (a species that is a member of the same genus), the shovelnose sturgeon. Life history of the shovelnose sturgeon has also been recently summarized by Keenlyne (1997). These data indicate that Alabama sturgeon are likely to migrate upstream during late winter and spring to spawn. Downstream migrations may occur to search for feeding areas and/or deeper, cooler waters during the summer. Eggs are probably deposited on hard bottom substrates such as bedrock, armored gravel, or channel training works in deep water habitats, and possibly in tributaries to major rivers. The eggs are adhesive and require current for proper development. Sturgeon larvae are planktonic, drifting with river currents, with postlarval stages eventually settling out to the river bottom. Sexual maturity is believed to occur at 5 to 7 years of age. Spawning frequency of both sexes is influenced by food supply and fish condition, and may occur every 1 to 3 years. Alabama sturgeon may live up to 15 or more years of age.

The Alabama sturgeon's historic range consisted of about 1,600 km (1,000 mi) of river habitat in the Mobile River Basin in Alabama and Mississippi. There are records of sturgeon captures from the Black Warrior, Tombigbee, Alabama, Coosa, Tallapoosa, Mobile, Tensaw, and Cahaba Rivers (Burke and Ramsey 1985, 1995). The Alabama sturgeon was once common in Alabama, and perhaps also in Mississippi. The total 1898 commercial catch of shovelnose sturgeons (i.e., Alabama sturgeon) from Alabama was reported as 19,000 kg (42,000 lb) in a statistical report to Congress (U.S. Commission of Fish and Fisheries 1898). Of this total, 18,000 kg (39,800 lb) came from the Alabama River and 1,000 kg (2,200 lb) from the Black Warrior River. Given that an average Alabama sturgeon weighs about 1 kg (2 lb), the 1898 commercial catch consisted of approximately 20,000 fish. These records indicate a substantial historic population of Alabama sturgeon.

Between the 1898 report and 1970, little information was published regarding the Alabama sturgeon. An anonymous article published in the Alabama Game and Fish News in 1930 stated that the sturgeon was not uncommon; however, by the 1970s, it had become rare. In 1976, Ramsey considered the sturgeon as endangered and documented only six specimens from museums. Clemmer (1983) was able to locate 23 Alabama sturgeon specimens in museum collections, with the most recent collection dated 1977. Clemmer also found that commercial fishermen in the Alabama and Tombigbee Rivers were familiar with the sturgeon, calling it hackleback, buglemouth trout, or devilfish.

During the mid-1980s, Burke and Ramsey (1985, 1995) conducted a status survey to determine the distribution and abundance of the Alabama sturgeon. Interviews were conducted with commercial fishermen on the Alabama and Cahaba Rivers, some of whom reported catch of Alabama sturgeon as an annual event. However, with the assistance of commercial fishermen, Burke and Ramsey were able to collect only five Alabama sturgeons, including two males, two gravid females, and one juvenile about 2 years old. Burke and Ramsey (1985) concluded that the Alabama sturgeon had been extirpated from 57 percent (950 km or 589 mi) of its range and that only 15 percent (250 km or 155 mi) of its former habitat had the potential to support a good population. An additional sturgeon was taken in 1985 in the Tensaw River and photographed, but the specimen was lost (Mettee, Geologic Survey of Alabama, pers. comm. 1997).

In 1990 and 1992, biologists from the Alabama Department of Conservation and Natural Resources (ADCNR), with the assistance of the Corps, conducted searches for Alabama sturgeon using a variety of sampling techniques, without success (Tucker and Johnson 1991, 1992). However, some commercial and sports fishermen continued to report recent catches of small sturgeon in Millers Ferry and Claiborne Reservoirs and in the lower Alabama River (Tucker and Johnson 1991, 1992).

In 1993, our biologists and the ADCNR conducted another extensive survey for Alabama sturgeon in the lower Alabama River. On December 2, 1993, a mature male was captured alive in a gill net downstream of Claiborne Lock and Dam, at river mile 58.8 in Monroe County, Alabama (Parauka, U.S. Fish and Wildlife Service, pers. comm. 1995). This specimen represented the first confirmed record of Alabama sturgeon in about 9 years. This fish was moved to a hatchery where it later died.

On April 18, 1995, an Alabama sturgeon captured by fishermen below Claiborne Lock and Dam was turned over to ADCNR and Service biologists. This fish was carefully examined, radio-

tagged, and returned to the river where it was tracked for 4 days before the transmitter switched off (Parauka, pers. comm. 1995). In June 1995, it was determined that the tag had dislodged. On May 19, 1995, our biologists took another Alabama sturgeon in Monroe County, Alabama, near the 1993 collection site. Unfortunately, shortly after the fish was tagged and released, it was found entangled and dead in a vandalized gill net lying on the river bottom (Parauka, pers. comm. 1995). On April 26, 1996, a commercial fisherman caught, photographed, and released an Alabama sturgeon (estimated at about 51 to 58 cm (20 to 23 in) total length and 1 kg (2 lb) weight) in the Alabama River, 5 km (3 mi) downstream of Millers Ferry Lock and Dam (Reeves, ADCNR, pers. comm. 1996).

Due to the historic decline, lack of collection success, and the apparent rarity of the sturgeon, members of the Mobile River Basin Recovery Coalition began discussions in the spring of 1996 to develop and implement a conservation plan for the Alabama sturgeon that could receive wide support. A draft plan was subsequently endorsed in 1997 by the ADCNR, Mobile District Corps, representatives of the Alabama-Tombigbee Rivers Coalition, and us (1997 Conservation Plan). This Plan identified the need to develop life history information through capture, tagging, and telemetry; capture of broodstock for breeding and potential population augmentation; construction of hatchery facilities for sturgeon propagation; and habitat identification and quantification in the lower Alabama River (see discussion of 1997 Conservation Plan under State Conservation Efforts section).

In March 1997, the ADCNR implemented the collection component of the 1997 Conservation Plan. The Geological Survey of Alabama, Corps, Waterways Experiment Station, Alabama Power Company, and the Service also participated in the effort. Up to four crews were on the river at any one time using gill nets and trot lines. Most of the effort focused on the lower Alabama River where recent previous captures had been made. Personnel from the ADCNR caught one small sturgeon (1 kg (2 lb) weight) on April 9, 1997, immediately below Claiborne Lock and Dam.

The ADCNR continued fishing for sturgeon through the fall and winter and collected another sturgeon downstream of Millers Ferry Lock and Dam on December 10, 1997. This fish was also transported to the Marion Fish Hatchery, where both fish were held for potential use as broodstock. In January 1998, the two fish were biopsied to determine their sex. The April specimen was found to be a mature female with immature eggs, whereas the December fish was a mature male.

Alabama broodstock collection efforts in 1998 resulted in the capture of a single fish on November 12, 1998. A biopsy performed in December found the specimen to be a reproductively inactive male. The two 1997 fish were also biopsied at this time, and were determined to be candidates for propagation in the spring of 1999.

On March 27, 1999, the mature male and female sturgeon captured during 1997 were induced to spawn. The female produced about 4,000 mature eggs; however, the male failed to produce sperm, and the fertilization attempt was unsuccessful. On April 4, 1999, the captive female died from a bacterial infection that was apparently aggravated by spawning stress. Another sturgeon was captured on April 14, 1999, by commercial fishermen downstream of Claiborne Lock and Dam, delivered to ADCNR fisheries biologists, and transported to the Marion State Hatchery. This sturgeon died at the hatchery in February 2000, following a biopsy that identified it as a female. Another Alabama sturgeon captured on August 18, 1999, in the Claiborne Pool also died at the hatchery shortly after transport. To date, more than 4,000 man-hours of fishing effort by professional fisheries biologists over the past 3 years has resulted in the capture of five fish, three of which have died in captivity.

The chronology of commercial harvest, scientific collections, and incidental catches by commercial and sport fishermen demonstrate a significant decline in both the population size and range of the Alabama sturgeon in the past 100 years. Historically, the fish occurred in commercial abundance and was found in all major coastal plain tributaries of the Mobile River system. The Alabama sturgeon has apparently disappeared from the upper Tombigbee, lower Black Warrior, lower Tallapoosa, and upper Cahaba, where it was last reported in the 1960s; the lower Coosa, last reported around 1970; the lower Tombigbee, last reported around 1975; and lower Cahaba, last reported in 1985 (Clemmer 1983; Burke and Ramsey 1985, 1995; Williams and Clemmer 1991; Mayden and Kuhajda 1996). The fish is known from a single 1985 record in the Mobile-Tensaw Delta; however, no incidental catches by commercial or recreational fishermen have been reported since that time. Recent collection efforts indicate that very low numbers of Alabama sturgeon continue to survive in portions of the 216-km (134-mi) length of the Alabama River channel below Millers Ferry Lock and Dam, downstream to the mouth of the Tombigbee River.

The historic population decline of the Alabama sturgeon was probably initiated by unrestricted harvesting near the turn of the century. Although there are no reports of commercial harvests of Alabama sturgeon after the 1898 report, it is likely that sturgeon continued to be affected by the commercial fishery. Keenlyne (1997) noted that in the early years of the 20th century, shovelnose sturgeon were considered a nuisance to commercial fishermen and were destroyed when caught. Interviews with commercial and recreational fishermen along the Alabama River indicate that Alabama sturgeon continued to be taken into the 1980s (Burke and Ramsey 1985). Studies of other sturgeon species suggest that newly exploited sturgeon fisheries typically show an initial high yield, followed by rapid declines. With continued exploitation and habitat loss little or no subsequent recovery may occur, even after nearly a century (National Paddlefish and Sturgeon Steering Committee 1993, Birstein 1993).

Although unrestricted commercial harvesting of the Alabama sturgeon may have significantly reduced its numbers and initiated a population decline, the present curtailment of the Alabama sturgeon's range is the result of 100 years of cumulative impacts to the rivers of the Mobile River Basin (Basin) as they were developed for navigation, especially during the last 50 years. Navigation development of the Basin affected the sturgeon in major ways. This development significantly changed and modified extensive portions of river channel habitats, blocked long-distant movements, including migrations, and fragmented and isolated sturgeon populations.

The Basin's major rivers are now controlled by more than 30 locks and/or dams, forming a series of lakes that are interspersed with short, free-flowing reaches. Within the sturgeon's historic range, there are three dams on the Alabama River (built between 1968 and 1971); the Black Warrior has two (completed by 1959); and the Tombigbee has six (built between 1954 and 1979). These 11 dams affect and fragment 970 km (583 mi) of river channel habitat. Riverine (flowing water) habitats are required by the Alabama sturgeon to successfully complete its life cycle. Alabama sturgeon habitat requirements are not met in impoundments, where weak flows result in accumulations of silt

making bottom habitats unsuitable for spawning, larval and postlarval development, and, perhaps, for the bottom-dwelling invertebrates on which the sturgeon feed.

Prior to widespread construction of locks and dams throughout the Basin, Alabama sturgeon could move freely between feeding areas, and from feeding areas to sites that favored spawning and development of eggs and larvae. Additionally, the sturgeon may have sought thermal refuges during summer months, when high water temperatures became stressful. Such movements might have been extensive, since other *Scaphirhynchus* species of sturgeons are known to make long-distance movements exceeding 250 km (155 mi) (Moos 1978, Bramblett 1996). Locks and dams, however, fragmented the sturgeons' range, forming isolated subpopulations between the dams where all the species' habitat needs were not necessarily met. With avenues of movement and migration restricted, these subpopulations also became more vulnerable to local declines in water and habitat quality caused by riverine and land management practices and/or polluting discharges. With access restricted by dams, habitat fragmentation also precluded recolonization of areas when subpopulations became extirpated.

Most of the major rivers within the historic range of the Alabama sturgeon have also been dredged and/or channelized to make them navigable. For example, the 740-km (459-mi) long Warrior-Tombigbee Waterway channel was originally dredged to 45 meters (m) by 2 m (148 feet (ft) by 7 ft) and later to 61 m by 3 m (200 ft by 10 ft). The lower Alabama and Tombigbee Rivers are routinely dredged in areas of natural deposition to maintain navigation depths. Dredged and channelized river reaches, in comparison to natural river reaches, have reduced habitat diversity (*e.g.,* loss of shoals, removal of snags, removal of bendways, reduction in flow heterogeneity, etc.), which results in decreased aquatic diversity and productivity (Hubbard *et al.* 1988 and references therein). The deepening and destruction of shoals and shallow runs or other historic feeding and spawning sites as a result of navigation development likely contributed to local and overall historic declines in range and abundance of the Alabama sturgeon.

Dams constructed for navigation and power production also affected the quantity and timing of water moving through the Basin. Water depths for navigation are controlled through discharges from upstream dams, and flows have also been changed as a result of hydroelectric production by upstream dams (Buckley 1995; Freeman and Irwin, U.S. Geological Survey, pers. comm. 1997).

The construction and operation of dams and development of navigation channels were significant factors in curtailment of the historic range of the Alabama sturgeon and in defining its current distribution. While these structures and activities are likely to continue to influence the environment (habitat) and its use by this species and others, the present effects of the operation of existing structures, flow regulation, and navigation maintenance activities on the sturgeon are poorly understood, in large part due to lack of specific information on the behavior and ecology of the Alabama sturgeon.

In 1994, we conducted an impact analysis with the Corps on potential effects of channel maintenance and other Federal actions in the Alabama River on the Alabama sturgeon. The analysis was summarized in a White Paper by Biggins (1994) (see text of the White Paper below). Based on limited information on the Alabama sturgeon and studies of the shovelnose sturgeon in the Mississippi River system, the White Paper noted that Alabama sturgeon appear to require strong currents in deep waters over relatively stable substrates for feeding and spawning, and they are not generally associated with the unconsolidated substrates that settle in slower current areas. Channel maintenance is primarily associated with specific shallow areas with unconsolidated substrates and produces small, localized, and temporary elevations of turbidity. Based on 1994 information, the White Paper concluded that the annual maintenance dredging program in the Alabama and lower Tombigbee Rivers does not adversely affect the Alabama sturgeon. Recent studies have also supported the conclusions of the White Paper (see discussion of maintenance dredging under Factor A). The White Paper in its entirety is at the end of this final rule.

In summary, the Alabama sturgeon has undergone marked declines in population size and range during the past century. Over-fishing and historical navigation development were significant factors in the sturgeon's decline. The Alabama sturgeon currently inhabits only about 15 percent of its historic range, and the species is known to survive only in the Alabama River channel below Millers Ferry Lock and Dam, downstream to the mouth of the Tombigbee River.

Previous Federal Actions

We included the Alabama sturgeon in **Federal Register** Notices of Review for candidate animals in 1982, 1985, 1989, and 1991. In the 1982 and 1985 notices (47 FR 58454 and 50 FR 37958), this fish was included as a category 2 species (a species for which we had data indicating that listing was possibly appropriate, but for which we lacked substantial data on biological vulnerability and threats to support a proposed rule; we discontinued designation of category 2 species in the February 28, 1996, Notice of Review (61 FR 7956)). In the 1989 and 1991 notices (54 FR 554 and 56 FR 58816), the Alabama sturgeon was listed as a category 1 candidate species (a species for which we have on file sufficient information on biological vulnerability and threats to support issuance of a proposed rule).

On June 15, 1993, we published a proposed rule to list the Alabama sturgeon as endangered with critical habitat (58 FR 33148). On July 27, 1993, we published a notice scheduling a public hearing on the proposed rule (58 FR 40109). We published a notice on August 24, 1993 (58 FR 44643), canceling and rescheduling the hearing. On September 13, 1993 (58 FR 47851), we published a notice rescheduling the public hearing for October 4, 1993, and extending the comment period to October 13, 1993. We held the October 4 public hearing on the campus of Mobile College, Mobile, Alabama. On October 25, 1993 (58 FR 55036), we published a notice announcing a second public hearing date, reopening the comment period, and stating the availability of a panel report. This second public hearing was canceled in response to a preliminary injunction issued on November 9, 1993.

On January 4, 1994 (59 FR 288), we published a notice rescheduling the second public hearing and extending the comment period. However, this hearing was subsequently rescheduled in a January 7, 1994, notice (59 FR 997). We held the second public hearing on January 31, 1994, at the Montgomery Civic Center, Montgomery, Alabama.

We published a 6-month extension of the deadline and reopening of the comment period for the proposed rule to list the Alabama sturgeon with critical habitat on June 21, 1994 (59 FR 31970). On September 15, 1994 (59 FR 47294), we published another notice that further extended the comment period and sought additional comments on only the scientific point of whether the Alabama sturgeon still existed. We withdrew the proposed rule on December 15, 1994 (59

FR 64794), on the basis of insufficient information that the Alabama sturgeon continued to exist.

On September 19, 1997, after capture of several individuals confirming that the species was extant, we included the Alabama sturgeon in the candidate species Notice of Review (62 FR 49403).

On March 26, 1999, we published a proposed rule to list the Alabama sturgeon as endangered, without critical habitat (64 FR 14676). We invited the public and State and Federal agencies to comment on the proposed listing; the comment period was open through May 26, 1999. On May 25, 1999, we published a notice announcing a June 24 public hearing on the proposal at the Montgomery Civic Center and an extension of the comment period through July 5, 1999 (64 FR 28142). To allow time for additional public comments, we reopened the comment period on July 12, 1999, through September 10, 1999 (64 FR 37492).

On January 11, 2000, we reopened the comment period (65 FR 1583), to make available for comment a 1999 study ''The Development of a DNA Procedure for the Forensic Identification of Caviar'' (Fain *et al.* 1999). On February 7, 2000 (65 FR 5848), we withdrew consideration of this study from the decision making process. For clarity and ease of understanding, we replaced it with a report containing information relevant to the Alabama sturgeon listing process (Fain *et al.* 2000). We accepted comments on this report through March 8, 2000.

We reopened the comment period again on February 16, 2000 (65 FR 7817), to announce the availability of and obtain comments on a Conservation Agreement and Strategy (Conservation Agreement Strategy) for the Alabama Sturgeon signed by the ADCNR, the Corps, the Alabama-Tombigbee Rivers Coalition, and us on February 9, 2000. We accepted comments on the Conservation Agreement Strategy and its relevance and significance to the listing decision until March 17, 2000.

We published Listing Priority Guidance for Fiscal Year 2000 in the **Federal Register** on October 22, 1999 (64 FR 57114). That guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. This final rule is a Priority 2 action and is being completed in accordance with the current Listing Priority Guidance.

Summary of Comments and Recommendations

We have reviewed all written and oral comments received during the comment periods and have incorporated information updating the available data into the appropriate sections of this rule. We have organized substantive comments concerning the proposed rule, Fain *et al.* 2000, and the Conservation Agreement Strategy into specific issues, which may be paraphrased. We grouped comments of a similar nature or subject matter into a number of broader issues. These issues and our response to each are summarized in the three subsections below.

Proposed Rule

In the March 26, 1999, proposed rule (64 FR 14676), we requested all interested parties to submit factual reports or information that might contribute to the development of a final rule. We sent direct notification of the proposal to 192 institutions and individuals, including Federal and State agencies, county governments, scientific organizations, and interested parties. We published legal notices announcing the proposal and inviting public comment on April 18, 1999, in the Montgomery Advertiser, Montgomery, Alabama; and the Mobile Press-Register, Mobile, Alabama. The comment period closed on May 26, 1999. On May 6, 1999, we received a request for a public hearing from the Alabama-Tombigbee Rivers Coalition. We published a notice on May 25, 1999 (64 FR 28142), scheduling the public hearing and extending the comment period through July 5, 1999. We sent direct notification of the hearing and comment period extension to Federal and State agencies, county governments, scientific organizations, and other interested parties. Legal notices announcing the public hearing and comment period extension were published on June 20, 1999, in the Montgomery Advertiser, Montgomery, Alabama; and the Mobile Press-Register, Mobile, Alabama. We held the public hearing at the Montgomery Civic Center, Montgomery, Alabama, on June 24, 1999, with approximately 1,000 people in attendance. We received oral comments from 78 individuals; of these, 66 expressed opposition to the listing, 3 supported the action, and 10 did not specifically state their position on the listing. Because of widespread concern over the proposed action, we reopened the comment period on July 12, 1999 (64 FR 37492), through September 10, 1999.

During the comment periods, we received approximately 4,000 cards, letters, and reports concerning the proposal. Most expressed opposition to, or concern about the proposed listing; however, a number of individuals supported the action. Opposition to the proposed listing primarily centered on perceived economic effects of the action, questions about taxonomy and science, and the adequacy of current State conservation actions to protect the sturgeon. We received comments from four Federal agencies and seven State agencies. The remaining comments were from individuals or representatives of organizations or groups. The Governor of Alabama and the ADCNR stated that existing State protection and recovery efforts are adequate, and opposed the listing. We convened a team of Service experts to review the issues raised, including issues of taxonomy and genetics, during the comment period for the Alabama sturgeon proposed rule and to ensure they were fully and correctly addressed prior to preparation of our final decision document on this species. Below are issues raised in these comments relating to this action and our responses to each.

Issue 1: The proposed listing was not based on the best scientific and commercial data available, as required by section 4(b)(1) of the Act. The literature cited to support the proposed rule was either not applicable, erroneous, incomplete, misinterpreted, or simply wrong.

Response: We thoroughly reviewed all scientific and commercial data in our possession in preparing the proposed rule. We sought and reviewed historic and recent publications and unpublished reports concerning the Alabama sturgeon, closely related species, and sturgeon literature in general, as well as literature and reports on human impacts to river systems and resulting responses in faunal composition and channel habitat integrity. Not all literature or reports reviewed were cited; however, the appropriate literature was cited to document the text in the proposal. We used our best professional judgment and, while we considered all of the information, we relied upon data and documents which in our professional opinion are the best scientific and commercial data and the most reliable.

Issue 2: The Service does not have sufficient scientific information to

conclude that the Alabama sturgeon is a distinct species from the common shovelnose sturgeon.

Response: The Alabama sturgeon is nationally and internationally considered a valid species. The Alabama sturgeon was initially described as a distinct species in a peer-reviewed, widely distributed museum periodical (Williams and Clemmer 1991). The species was considered valid in a catalog of fishes of Alabama (Boschung 1992) and in a catalog of fishes of North America (Mayden *et al.* 1992). Species status was reassessed, reaffirmed, and published in the ichthyological journal *Copeia* (Mayden and Kuhajda 1996). The Alabama sturgeon is listed as a separate species in State fish books for Alabama (Mettee *et al.* 1996) and Mississippi (Ross and Brenneman in press). The Alabama sturgeon is listed as a valid species in a catalog of fishes of the world (Eshmeyer 1998). Birstein *et al.* (1997) included the Alabama sturgeon in a list of all sturgeon species of the world. The Alabama sturgeon is considered a distinct and valid species by the American Society of Ichthyologists and Herpetologists (1995, 1999 *in litt.*), and by the Southern Fishes Council Technical Advisory Committee (Warren *et al.* in prep.). Thus, the Alabama sturgeon is currently recognized as a valid taxonomic species and will continue to be so recognized unless overturned at some future date by the scientific community through the formal publication and peer review process.

Issue 3: The Service should conduct comprehensive taxonomic and life history studies of the genus *Scaphirhynchus* on a river system by river system basis prior to listing.

Response: While having comprehensive knowledge of a species and its near relatives throughout their geographic ranges prior to listing would be ideal, it is seldom, if ever, possible. Resolution of all aspects of taxonomy and life history for this genus could take years, perhaps decades. The Act requires us to use the best available information to determine the status of a species, subspecies, or vertebrate population. The available information clearly indicates that the Alabama sturgeon is in danger of extinction. Resolving unpublished taxonomic dissent prior to a proposal or final decision is not required. The threat assessment that currently applies to the Alabama sturgeon as a taxonomic species would apply equally to a subspecies or distinct population segment.

Issue 4: The Service has failed to clearly indicate which reports or studies they consider to be the best available scientific and commercial data.

Response: The list of literature cited in the proposal indicates which reports and studies we consider to be the best available scientific and commercial data. We have reviewed all information currently available to us in assessing the status of the Alabama sturgeon. A list of the literature cited in the proposal is available upon request, as noted in the proposed and final rules, and was provided to interested parties during the open comment period. We also allowed interested parties access to review our files and administrative record on two occasions. In conducting our analysis, we noted opposing views available to us on taxonomy; genetics; distribution and abundance; life history; historic, present, and future threats; and vulnerability to extinction. We evaluated all information with regard to its applicability to the determination of species status under the Act and acceptance by the scientific community.

Issue 5: The Service was provided, and has ignored, information discrediting species status for the Alabama sturgeon. Only 4 of 17 scientific reports, documents, and statements provided to the Service in 1993 and 1994 that opposed listing the Alabama sturgeon as a distinct species at that time, were cited in the 1999 proposed rule. The Service has ignored all opposing scientific documents, except a few.

Response: We reviewed the information received in 1993 and 1994 that criticized the taxonomy of the Alabama sturgeon prior to preparing the March 26, 1999, proposed rule. The views expressed in the documents were generally summarized in the proposed rule, and several were cited as examples. In proposed and final rules, as well as in most scientific documents, only references used to document or clarify statements are explicitly cited.

The reports referenced by commenters that were not cited in the proposal criticized the original description of the Alabama sturgeon (Williams and Clemmer 1991) and expressed alternative views of its taxonomic status. We reviewed these documents and have not ignored their views; however, only one taxonomic treatment of the species (Mayden and Kuhajda 1996) has been published in the 9 years since the fish was first described. It supersedes the original description and postdates the unpublished accounts referenced that disputed taxonomic validity. Mayden and Kuhajda (1996) scientifically documented species recognition of the Alabama sturgeon. Several national and internationally available articles have also been published since 1994 that recognize the taxonomic validity of the species (see response to Issue 2). Absent publication of alternative or differing taxonomic data and conclusions through the peer review scientific process, the species will continue to be recognized as *Scaphirhynchus suttkusi* by the taxonomic community at large.

Issue 6: No scientists have directly challenged any of the scientific data or conclusions of the dozen scientists who question the taxonomy of the Alabama sturgeon.

Response: With the one, limited exception discussed below, none of the data and conclusions of the scientists who question the taxonomy of the Alabama sturgeon have been made available for review by the scientific ichthyological community through the accepted process of peer review and publication. Only a single peer-reviewed paper has been published that questions the taxonomy of the Alabama sturgeon (Bartolucci *et al.* 1998). However, that publication was a methods paper concerning a statistical approach to compare the significance of morphological characters. It was published in a statistically oriented journal and not in a zoological, ichthyological, or systematics journal, and it made no attempt to formally revise the taxonomy of the Alabama sturgeon. We received letters from ichthyologists during the comment period pointing out shortcomings of Bartolucci *et. al* (1998) for taxonomic purposes. In a review of the systematics and taxonomy of the Alabama sturgeon, Mayden and Kuhajda (1996) presented new data, addressed many of the criticisms of the original description, and substantiated species status for the Alabama sturgeon.

Issue 7: The Service did not list the references that were cited in the proposed rule.

Response: In order to save publication space and expense, it is common practice not to include the references cited in the published proposal. The proposed rule clearly noted that a complete list of references was available upon request. We have provided copies of references to all who have requested them.

Issue 8: Some of the literature cited for scientific background was criticized as outdated and superseded by later reports. Other studies were said to be irrelevant to the status of the sturgeon because they did not directly address the Alabama sturgeon.

Response: We disagree with the assessment that the literature cited in the proposed rule is outdated and

superseded by later reports. Historic status reviews and surveys were cited, along with more recent studies (see Background section), to document efforts to determine the status of the species over a period of two decades. Review of studies on closely related and better known sturgeons provides virtually the only insight to the life history, ecology, and vulnerability of the Alabama sturgeon. It is common and accepted practice in science to deduce the needs and vulnerability of poorly known, rare species, or those that are difficult to study, by using information from more common and better known, related species. It is also common in science to use surrogate species to deduce effects of environmental changes on another species with appropriate caveats that recognize known similarities and differences. For example, it is a common practice in the biomedical sciences to use experimental studies of laboratory mice to infer the potential carcinogenic effects of environmental contaminants and to evaluate the physiological effects of new drug treatments before they are ever tested on humans.

Issue 9: The Service still claims that the 1991 description of the Alabama sturgeon, discredited by several scientists, is the best available information on the fish.

Response: We recognize errors in the original description (Williams and Clemmer 1991) that have been brought to our attention since 1993. Furthermore, we explicitly reference a rigorous taxonomic and systematic evaluation published in the journal *Copeia* (Mayden and Kuhajda 1996) that firmly establishes the species name, and the species name is widely used in peer-reviewed publications. In keeping with accepted practices in scientific nomenclature and regardless of errors in the original description, the Williams and Clemmer (1991) article will continue to be recognized by the ichthyological professional community as the source of the name *Scaphirhynchus suttkusi* as long as the taxonomy is considered valid (see also response to Issue 16''). As noted in our response to Issue 2,'' the Alabama sturgeon is currently and widely recognized in published literature as a valid taxonomic species.

Issue 10: Certain information presented in the proposal regarding the sturgeon's habitat needs, reproductive cycles, and life history requirements is without basis in fact or science.

Response: We have used the best available information for assessing the sturgeon's biological needs. This information has been in the form of peer-reviewed literature and professional scientific reports. The Alabama sturgeon's habitat needs, reproductive cycles and life history requirements are not completely known. For those areas where there is insufficient or no information we have utilized information garnered from peer-reviewed scientific studies of the closely related pallid sturgeon and shovelnose sturgeon (see response to Issue 8'').

Issue 11: Scientific disagreement with the 1991 Williams and Clemmer description constitutes substantial disagreement among recognized experts.

Response: Taxonomic disagreements are not uncommon in any field of systematic biology. While there may be individuals that disagree with the sturgeon's species status, we do not think that this disagreement is substantial. Taxonomic disagreements are resolved through the peer-review publication process, where evidence and interpretation are laid out to the rigorous scrutiny of the scientific community. None of the biologists who disagree with the validity of the specific status of the Alabama sturgeon has presented his or her views through the formal process of submitting papers to appropriate zoological journals. We will give consideration only to those disagreements which are found in the appropriate zoological journals. Regardless of the taxonomic status recognized in the proposal and final rule, the scientific process remains available to dissenting opinions through formal peer-review publication in appropriate journals.

Issue 12: Mayden and Kuhajda (1996) failed to do a thorough river system by river system analysis of shovelnose sturgeon.

Response: The Mayden and Kuhajda (1996) paper is the most thorough and comprehensive analysis of Alabama sturgeon systematics and taxonomy published to date. We are required to use the best scientific and commercial information that is available. The information and conclusions presented in this account were peer-reviewed and accepted for publication by *Copeia*, a highly respected scientific journal, and one recognized as appropriate for describing new species of fish.

Issue 13: The Mayden and Kuhajda (1996) paper is not the most recent science regarding the taxonomy of the Alabama sturgeon. Bartolucci *et al.* (1998) reviewed, criticized, and trumped the Mayden and Kuhajda (1996) paper.

Response: Bartolucci *et al.* (1998) was published in a journal oriented to statistical methodology, not an ichthyological or systematics journal. This paper used Bayesian Analysis statistical methodology to compare the principal components of measurement data from samples of Alabama and shovelnose sturgeon. Their results supported previous unpublished conclusions (Howell *et al.* 1994) that the Alabama and shovelnose sturgeon were indistinguishable by principal component analyses of measurement data. The publication did not identify the measurement data that were analyzed, nor was the source of their data cited. Dr. Bartolucci later clarified in submissions at the June 1999 public hearing on the proposed rule that data provided by Williams and Clemmer (1991) were used. In addition, Bartolucci *et al.* (1998) did not review, criticize, or even reference the Mayden and Kuhajda (1996) evaluation of the taxonomy and systematics of the Alabama sturgeon, and additional mensural (based on measurements) and meristic (based on counts) data, as well as new diagnostic characters presented by Mayden and Kuhajda (1996) were not addressed.

Issue 14: The Service financially underwrote the 1996 Mayden and Kuhajda paper through a Service contract.

Response: We did not provide funds or any other type of support for the 1996 Mayden and Kuhajda paper.

Issue 15: The Service failed to evaluate Bartolucci *et al.* (1998) in its 1998 Status Review Report for the Alabama sturgeon and failed to analyze or consider the publication in the proposed rule, as evidenced by an erroneous reference to the paper in the proposal.

Response: We received comments on our 1998 Status Report from Dr. Howell referred to the publication of a recent and relevant paper (Bartolucci *et. al* 1998) and, at our request, provided us with a copy. We reviewed, analyzed, and considered the information published in Bartolucci *et al.* (1998) and cited the paper in the proposed rule as part of a brief review of the taxonomy of the Alabama sturgeon (refer to Issue 13 for a more detailed discussion of our analysis of this paper). We acknowledge that the text in the proposed rule is misleading as to the statistical methodology employed by Bartolucci *et al.* (1998). Therefore, we have modified the language to clarify that Bartolucci *et al.* (1998) used Bayesian Analysis statistical methodology to compare the multivariate means of measurements taken from samples of Alabama and shovelnose sturgeon (see Background section).

Issue 16: The Service has incorrectly cited the rules set forth by the

International Code of Zoological Nomenclature (ICZN). Complying with the rules does not validate a species. ICZN is heavily based on the law of priority. Based on priority, *Scaphirhynchus suttkusi* is a synonym of *S. platorynchus.*

Response: The ICZN deals with the criteria for publication of new scientific names. Chapter 3, Article 7, of the ICZN recommends publication in an appropriate scientific journal or monographic series. As stated in the proposed rule, the description of the Alabama sturgeon (Williams and Clemmer 1991) complies with ICZN rules and recommendations. Chapter 6, Article 23, of the ICZN sets forth the Principle of Priority. This principle states that The valid name of a taxon is the oldest available name applied to it * * * The oldest name applied to a distinct species of *Scaphirhynchus* endemic to the Mobile River Basin is *Scaphirhynchus suttkusi* Williams and Clemmer 1991.

Issue 17: The Service should request the ICZN to render an opinion on the question of the taxonomic validity of the Alabama sturgeon.

Response: The purpose of the ICZN's Principle of Priority is to promote stability of names. In rare cases, the ICZN may rule on nomenclature priority if requested. Regarding disagreements over newly described species, the accepted procedure is to present data, conclusions, and nomenclature changes in appropriate peer-reviewed journals.

Issue 18: Various genetic tests have been conducted on Alabama sturgeon, shovelnose, and pallid sturgeon. The results of these tests have been inconclusive and do not support the listing of the Alabama sturgeon as an endangered species.

Response: The proposed rule recognizes the limited results of genetic evaluations for distinguishing species of *Scaphirhynchus.* However, genetic studies cited in the proposed rule, and several received during the comment periods have been consistent with biogeographic arguments for recognizing Alabama sturgeon as an isolated phylogenetic (classification of organisms based on their deduced evolutionary relationships) lineage (Campton *et al.* 1995, 1999, in press; Genetic Analyses, Inc. 1994, 1995; Mayden *et al.* 1999). Mayden and Kuhajda (1996) further demonstrated that the degree of morphological divergence between Alabama and shovelnose sturgeon warranted taxonomic species status for the former. In preparing the proposed rule, we relied primarily upon the taxonomic and systematic evaluation of Mayden and Kuhajda (1996). The genetic studies noted above are consistent with that distinction. The absence of detectable differences by other investigators (*e.g.,* Schill and Walker 1994, Fain *et al.* 2000) only attests to the very close evolutionary relationship between Alabama and shovelnose sturgeon. The Alabama sturgeon meets the definition of an endangered species.

Issue 19: The Service has completely ignored the Schill and Walker report (1994), which demonstrated that the shovelnose sturgeon and the Alabama sturgeon are the same species.

Response: The proposed rule cited Schill and Walker (1994) who noted that shovelnose, pallid, and Alabama sturgeon were indistinguishable at the mitochondrial cytochrome b locus. The proposed rule also noted similar findings for other currently recognized species. Dr. Jeffrey Wells (*in litt.* 1999), a geneticist hired by the Alabama-Tombigbee Rivers Coalition to review sturgeon genetic studies, also concluded that the Schill and Walker study, among others, does not disprove that the Alabama sturgeon is a separate species.

Issue 20: The Service hired Genetic Analyses, Inc., to conduct additional genetic studies. The 1999 proposal did not address their 1994 recommendation for more studies.

Response: In 1994, we were made aware of an imminent nuclear DNA genetic study of pallid and shovelnose sturgeon to be jointly funded by the U.S. Army Corps of Engineers, Omaha District, and the Service's Region 6. At our request, tissues from a single Alabama sturgeon available at that time were included in this previously arranged study. The 1994 Genetic Analyses, Inc., data indicated some genetic divergence of Alabama sturgeon from both pallid and shovelnose sturgeon. The report noted, however, that their results were based upon DNA samples from a single Alabama sturgeon and encouraged expanding the investigation should additional specimens become available. In 1995, Genetics Analyses, Inc., reported similar genetic results on two additional, recently collected Alabama sturgeon. They also noted differences between individual Alabama sturgeon, and again recommended additional studies. We provided these conclusions and recommendations in the proposal.

Issue 21: The U.S. Army Corps of Engineers, Mobile District, requested clarification of a number of issues raised in the Genetic Analyses, Inc., 1994 draft report. These issues were not addressed in the 1994 Genetic Analyses, Inc., final report.

Response: According to information available to us, the request for clarification by the Mobile District was made to the Omaha District, U.S. Army Corps of Engineers. The lack of response to requests for clarification from one Corps District to another has no bearing on us or the final report.

Issue 22: The Service claims that the three Alabama sturgeon samples tested by Genetic Analyses, Inc., (1995) are the same species even though one specimen was found to be genetically different from the other two, and genetically the same as the shovelnose.

Response: The 1995 study found that all three Alabama sturgeon genetic samples were substantially divergent from shovelnose and pallid sturgeon. However, two new Alabama sturgeon samples were equally divergent from a previously tested Alabama sturgeon sample. For this reason, Genetic Analyses, Inc., recommended examining nuclear DNA genetic diversity within the Alabama sturgeon population as additional samples become available. We made these findings clear in the proposed rule.

Issue 23: The Campton *et al.* (1995) report found a difference in only 1 base pair out of 435 between the Alabama sturgeon and the shovelnose sturgeon. The report concluded that the Alabama sturgeon is either a separate subspecies or a distinct population segment. The Service failed to explain the conclusion of the Campton *et al.* (1995) report and inappropriately interpreted the report to mean only that the Alabama sturgeon is a separate species.

Response: Campton *et al.* (1995) noted that the level of genetic similarity that they observed between Alabama sturgeon and pallid and shovelnose sturgeon was more typical of isolated populations or subspecies than congeneric species. However, they also referred the reader to similar levels of genetic similarity between species and even genera of cichlid fishes in Africa. The report concluded that the genetic data were consistent with biogeographic and morphological arguments for recognizing *S. suttkusi* (Alabama sturgeon) as an endangered species or distinct population segment * * *. In our summary of their results, we noted that the relative genetic differences among the three species was small. However, Campton *et al.* (1995) clearly demonstrated that pallid and shovelnose sturgeon are genetically distinct in areas where they naturally co-occur, and they also provided genetic (mtDNA) data consistent with the taxonomic distinction of Alabama sturgeon from shovelnose sturgeon. A follow-up study (Campton *et al.* 1999)

reaffirmed their earlier results regarding the genetic distinctiveness of Alabama sturgeon with additional samples of pallid and shovelnose sturgeon from the Atchafalaya River. To date, those investigators (Campton *et al.* 1995, 1999) have examined 75 specimens of *Scaphirhynchus* from the Missouri and Atchafalaya Rivers, and none of the specimens possessed the mtDNA haplotype that characterized the three Alabama sturgeon they examined. One nucleotide substitution out of 435 base pairs demonstrates only the relatively slow rate (*i.e.,* over geological time scales) at which genetic changes in DNA molecules occur over time. The genetic data are, thus, consistent with biogeographic arguments that Alabama sturgeon have been isolated in the Mobile River Basin for at least 10,000 years.

Issue 24: Dr. Jeffery Wells reviewed Campton *et al.* (1995), and Mayden *et al.* (1999) (received during the open comment period), and conducted mtDNA analysis on an additional eight shovelnose sturgeon using techniques described by Campton *et al.* (1995). Dr. Wells criticized the conclusions reached in both previous studies and stated that these studies, as well as his own, were inconclusive in determining the potential status of the Alabama sturgeon as a separate species using mtDNA.

Response: Genetic data are not commonly used to prove that allopatric (do not occur in the same place) populations are different species. However, Campton *et al.* (1995, 1999) and Mayden *et al.* (1999) identified a unique mtDNA haplotype for Alabama sturgeon that has not been observed among over 40 shovelnose and 30 pallid sturgeon examined to date from the Mississippi and Missouri River Basins. While this genetic data alone does not prove that they are distinct species, it is consistent with Mayden and Kuhajda's (1996) taxonomic description.

Issue 25: Reviews of Campton *et al.* (1999) by Drs. Mike Howell and Jeffrey Wells clearly indicate that more genetic testing is required to determine the true genetic status of the three species of *Scaphirhynchus*.

Response: We received Campton *et al.* (1999) during the open comment period and, therefore, did not consider it in preparing the proposal. However, as mentioned previously, the report of Campton *et al.* (1999) is consistent with the results of their previous study (Campton *et al.* 1995) and reaffirms their conclusions regarding the genetic distinctness of the three *Scaphirhynchus* species. Genetics of *Scaphirhynchus* is poorly known and we acknowledge that more work is needed. However, as discussed in the previous issue and Issue 60, genetic data alone is not conclusive in distinguishing species, particularly for those species which do not occur together. However, the genetic studies conducted to date by Campton *et al.* (1995, 1999) are consistent with the results of Mayden and Kuhajda (1996) and the taxonomic distinction of Alabama sturgeon.

Issue 26: Dr. Stephen Fain was inappropriately influenced by a Service listing biologist to withdraw from cooperative genetic studies of the Alabama sturgeon.

Response: Dr. Fain is the DNA Research Team Leader at the National Fish and Wildlife Service Forensics Laboratory in Ashland, Oregon. We were notified by ADCNR fisheries biologists that they had provided Dr. Fain with samples for genetic studies on the genus Scaphyrhinchus. We subsequently contacted Dr. Fain to ensure that he was aware of several previous genetic and morphological studies on the genus. We did not ask Dr. Fain to withdraw from cooperative genetic studies. We also informed Dr. Fain that we would welcome additional information on genetics of the Alabama sturgeon. Dr. Fain's research was completed in late 1999, and summarized in Fain *et al.* (1999, 2000). These reports were made available for public review and comment by reopening the comment period between January 11 and March 5, 2000. Comments pertaining to this work are summarized below in Issues 59 through 61.

Issue 27: The Service failed to explain which, if any, of the five factors they are relying upon to justify the proposed listing.

Response: Factor A clearly establishes the present curtailment of range and the apparent causes of curtailment. Factor E states that the primary threat to the immediate survival of Alabama sturgeon is its small population size and its apparent inability to offset mortality rates with reproduction and recruitment, as evidenced by declining rates of capture over the past two decades. At the conclusion of the summary of factors, the proposal stated: Endangered status is appropriate for the Alabama sturgeon due to extensive curtailment of its range and extremely low population numbers.

Issue 28: The Service's conclusion that current habitat conditions imperil the Alabama sturgeon is unsupported by the available scientific information.

Response: Factor A notes the disappearance of the Alabama sturgeon from about 85 percent of its historic range, and that human activities are associated with its decline in range. This finding is supported by historic trends and recent collection efforts (see Background section). Our primary concern under Factor A is whether the quantity of habitat currently occupied by the sturgeon is adequate to support a self-sustaining, viable population. The Background section of the proposal and this final rule also cite studies reporting long-distance movements of the other species of *Scaphirhynchus,* possibly between feeding and spawning sites. While most of the impacts to the sturgeon's habitat were historic, gradual, and cumulative, they still may affect the sturgeon's ability to move within the system between areas for feeding and reproduction. A reduction in natural range from about 1,600 km (1,000 mi) to 216 km (134 mi) of river channel is certainly cause for concern in a wide-ranging fish species with possible migratory needs. This concern is supported by other examples in the fisheries literature (e.g., salmon, striped bass, and robust redhorse, as well as other sturgeon species). Occupied habitat quality was not directly identified as a known threat. We have some concern that the timing of water releases below Millers Ferry Lock and Dam may have negative effects on sturgeon reproduction. Other sturgeon species' reproductive success has been affected by changes in water quantity and timing (see studies cited in the discussion under Factor A). We acknowledge, however, that the lack of specific information on Alabama sturgeon reproductive habitat requirements or the use of this area by the sturgeon for reproduction limits our ability to draw definite conclusions as to current impacts on the Alabama sturgeon.

Issue 29: The Service has failed to consider the myriad of existing Federal, State, and local laws that provide additional protection for the Alabama sturgeon and its habitat. Factor D fails to justify listing the Alabama sturgeon as an endangered species.

Response: We agree that a number of existing laws and regulations benefit the sturgeon and its habitat. Factor D, however, addresses the inadequacy of protective regulatory mechanisms. In the proposed rule and in this final rule, we note that, within the scope of other environmental laws or Alabama State law, there is currently no requirement to specifically consider the effects of actions on the Alabama sturgeon or ensure that a project will not jeopardize its continued existence. We concur that this issue alone does not present a significant threat to the Alabama sturgeon at this time. The Act requires

that a determination of endangered or threatened status be made on any one of the five factors under section 4(a)(1). See the discussion under the Summary of Factors Affecting the Species section for a complete description of the threats.

Issue 30: Minimum Viable Population (MVP) is a theoretical hypothesis and not an established quantifiable technique. The Service has no data (population size, mortality and reproduction rates, etc.) to determine an MVP.

Response: Over the past few decades, biologists have been studying the processes of extinction for small populations (see Soule 1987). The likelihood of species extinction and/or extirpation (loss) of isolated populations increases dramatically as population size diminishes (Shaffer 1987). The Alabama sturgeon has been reduced to about 15 percent of its historic range. Collection history and anecdotal accounts from commercial fishermen demonstrate a continued decline in catches over the past few decades or, at a minimum, an increased effort required to collect the fish.

A number of techniques have been developed to estimate the probability of extinction for populations of animals over time, or to predict the minimum population size (MVP) necessary for a population to persist for a given time period (see Soule 1987). In the proposed rule, we did not attempt to determine a hypothetical numerical population size necessary to sustain the Alabama sturgeon, and we concur that the information does not currently exist to define a numerical MVP. We used the MVP terminology to depict that the Alabama sturgeon's increasing restriction in range, its rarity, and its life history render the species highly vulnerable to chance extinction. However, for purposes of clarity, we have removed discussion of MVP from this final rule and instead refer to the threat presented to the Alabama sturgeon by its small population size.

Issue 31: The Service has offered no proof or evidence of a current or continuing decline in the Alabama sturgeon's population numbers in the Alabama River. Alabama sturgeon have been rare for decades and are as plentiful in the Alabama River today as they were 25 years ago.

Response: We concur that Alabama sturgeon have probably been uncommon in the Mobile River Basin for the past few decades. However, collection data over this time period demonstrate a decline in distribution, as well as a reduction in population size. For example, collection data indicate that the species has disappeared from the Coosa, Tallapoosa, Black Warrior, upper Tombigbee, and upper Alabama Rivers since the 1960s (see Background section). Interviews with commercial fishermen and fisheries biologists also indicate that the Alabama sturgeon has disappeared from the Millers Ferry reach of the Alabama River, and the Cahaba, lower Tombigbee, and Mobile/Tensaw Rivers during the past 25 years. Recent collection efforts suggest a decrease in abundance of the species in the lower Alabama River and the Claiborne Dam reach during the past 15 years.

The first attempt to determine the status of the Alabama sturgeon in the Mobile River Basin was by Clemmer (1983). Although an ADCNR fisheries biologist reported regular catches of shovelnose (=Alabama) sturgeon in the Cahaba River during the early 1980s, Clemmer documented recent trends in lower numbers of sturgeon through interviews with commercial fishermen and professional fisheries biologists. Burke and Ramsey (1985) reached the same conclusion of declining Alabama sturgeon from interviews with veteran fisheries biologists, conservation officers, and full-time commercial fishermen. They conducted random stratified interviews with full-time commercial fishermen and reported 18 pre-1975 captures and 7 post-1975 captures. Commercial fishermen reported recent declines in captures of Alabama sturgeon in the Millers Ferry reach of the Alabama River and the Cahaba River. Burke and Ramsey (1995) described their ability in 1985 to capture Alabama sturgeon with relative ease in the Alabama River below Millers Ferry Lock and Dam. ADCNR biologists Tucker and Johnson (1991, 1992) reported on sturgeon collection efforts and interviews with conservation officers, fisheries professionals, and commercial and sports fishermen. They employed a variety of collection methods in the lower Alabama River, Claiborne Reservoir, Millers Ferry Reservoir, Tombigbee River, and Cahaba River without capturing any sturgeon. However, interviews yielded reports of several recent captures of small sturgeon in the lower Alabama and Cahaba Rivers during 1991 and 1992. As noted in the proposed rule, the most intensive fishing effort to date was initiated in early 1997. At the time of publication of the proposal, more than 3,000 man-hours of fishing effort directed toward sturgeon were expended over an 18-month period by professional fisheries biologists. In addition, commercial and recreational fishermen were asked to report any captures. As a result of this intensive effort, only three sturgeon were captured in 1997 and 1998. Two additional fish have been collected during intensive fishing efforts since publication of the proposal in 1999. While it is unfortunate that directly comparable data do not exist through all decades, the disappearance of the species from much of its range, the anecdotal accounts by knowledgeable fisheries biologists and commercial fishermen of a decline in captures, and the documented intensive efforts required to capture the species during the last four years clearly indicate a reduction in the range and numbers of Alabama sturgeon in the Mobile River Basin over the past two decades.

Issue 32: There is no evidence that the 1898 reported catch of shovelnose sturgeon were not immature Gulf sturgeon.

Response: The U.S. Commission of Fish and Fisheries (1898) represents the best available commercial information on sturgeon fisheries at the turn of the century in the Mobile River Basin. The shovelnose sturgeon was described in 1820, and the Atlantic sturgeon (as the Gulf sturgeon was known at that time) was described in 1814. There is no evidence to suggest that the fisheries biologists compiling the 1898 statistics were not able to distinguish the two species. The lake sturgeon, another sturgeon species more similar in appearance to the Gulf sturgeon than the shovelnose, was also reported in the statistics.

Issue 33: The Service should address the State's efforts to conserve the Alabama sturgeon under Factor E.

Response: The ADCNR fishing and hatchery efforts are addressed in the Background section. The State's 1997 Conservation Plan was addressed in detail in the proposed rule under Available Conservation Measures. We have moved this discussion under Factor E in this final rule, as recommended.

Issue 34: The Service has consistently opposed suggestions to use shovelnose sturgeon from the Mississippi River drainage to augment Alabama sturgeon populations in the Mobile River drainage.

Response: Introducing shovelnose sturgeon from the Mississippi River drainage into the Mobile River drainage is ill-advised at the present time because doing so could lead to, or accelerate, the extinction of Alabama sturgeon through hybridization, genetic swamping, or competition.

Issue 35: The Service requires continued cooperation from commercial and recreational fishermen and the ADCNR to successfully recover the

Alabama sturgeon. Listing the Alabama sturgeon under the Act will impede that cooperation by enacting Federal take prohibitions and penalties, and funds available for candidate conservation cannot be used for recovery efforts.

Response: We agree that cooperation from ADCNR and commercial and recreational fishermen, as well as others, is essential to the recovery of the Alabama sturgeon. Section 6 of the Act allows us to enter into cooperative agreements with States to assist them in conserving endangered or threatened wildlife. A section 6 cooperative agreement between the State of Alabama and us recognizes the State's authority to establish and implement programs for the conservation of federally listed species and provides funding assistance towards their conservation. Under the cooperative agreement, the ADCNR may continue to implement the 1997 Conservation Plan for the Alabama sturgeon, or any future approved recovery plan. ADCNR is also eligible for funds for conservation of the sturgeon under our recovery and section 6 programs. Implementing regulations (50 CFR 17.21(c)(5)) also provide States under cooperative agreements certain authorities for conducting actions for the conservation (*i.e.,* recovery) of endangered species.

Listing the Alabama sturgeon under the Act increases penalties for already prohibited acts. Unauthorized removal of sturgeon from the waters of Alabama is already prohibited by State law. Cooperation and assistance from private individuals, such as recreational and commercial fishermen, can continue under both Federal and State permitting authority.

Listing of the Alabama sturgeon under the Act does not effect use of the fiscal year 2000 candidate conservation funds already given to the State. We have obligated this money to the State of Alabama; they may use it for the purpose of candidate conservation and it will not be rescinded.

Issue 36: The Service failed to consider the 1997 Conservation Plan and its favorable effect on the Alabama sturgeon in its proposal.

Response: We outlined the 1997 Conservation Plan in the proposed rule under Available Conservation Measures. Implementation efforts under the plan were also discussed under the Background section of the proposal. Implementation of the plan tasks, such as construction of hatchery facilities and collection efforts, is positive and provides opportunities for future population augmentation. However, the plan has not yet been successful in decreasing the threat of extinction to where protection under the Act is no longer warranted.

Issue 37: The proposed listing of the Alabama sturgeon has made it more difficult for ADCNR to implement the 1997 Conservation Plan because of permitting requirements, conferencing limitations, and Service propagation policies.

Response: Proposed endangered status has not affected implementation of the 1997 Conservation Plan. We have no permitting requirements for proposed species; we will expedite permitting procedures once this final rule is published. The section 7 conferencing requirements were met with the White Paper (Biggins 1994) and subsequent correspondence between the Corps and us. We published a Draft Policy Regarding Controlled Propagation of Species Listed Under the Endangered Species Act on February 7, 1996 (61 FR 4716). We will work with the State to ensure that the Alabama sturgeon propagation program is in compliance with the policy, once we publish the policy in final form. Collection efforts have continued, and two fish have been caught since the listing proposal was published. The State conducted an unsuccessful attempt to propagate the sturgeon following publication of the proposal.

Issue 38: Candidate conservation funds appropriated for the FY 2000 budget cannot be used for sturgeon conservation, should the Alabama sturgeon be listed.

Response: Funds appropriated for Alabama sturgeon conservation in the FY 2000 budget were committed to Alabama sturgeon conservation efforts while the sturgeon was a proposed species. (Refer to Issue 35 for further information.)

Issue 39: Listing will transfer responsibility for managing the Alabama sturgeon from the State to the Service, and work on the 1997 Conservation Plan will stop for at least a year until a recovery plan is developed and approved.

Response: Our policy is to develop recovery plans for listed species within two and a half years of their designation as endangered or threatened species. Approved recovery plans, however, are not necessary to conduct recovery actions for listed species. Under the section 6 agreement between the State and us, the ADCNR may continue conservation efforts without delay.

Issue 40: The U.S. Coast Guard has stated that listing the Alabama sturgeon would seriously limit, if not hamper, the dredging of all navigable waterways in the historic Mobile River Basin.

Response: The U.S. Coast Guard comments were based on a premise that listing the sturgeon would stop navigation maintenance. They were unaware of an impact assessment on navigation maintenance conducted and agreed to by both us and the Mobile District Corps of Engineers that concluded that navigation dredging would not need to be eliminated, modified, or altered should the Alabama sturgeon be listed. They have since been provided with this information.

Issue 41: The White Paper is an informal agreement that must be endorsed at the national level to be believable. The Service should include the White Paper in its entirety in the final rule to list the Alabama sturgeon.

Response: The White Paper (Biggins 1994) is not an agreement, but a 1994 assessment of impact of a Federal agency's activities on a proposed species. This assessment found no adverse effect to the Alabama sturgeon from current Corps activities and permitting activities in the lower Alabama River. The no-adverse-effect determination was formalized by an exchange of letters between the two agencies that same year. In 1998 and 1999, both agencies reaffirmed this conclusion following studies that supported the determination. Federal agency activity impact assessments on listed species, required by the Act, are conducted at the field level. Should disagreements occur, they may be elevated to the Regional and District level. Although there was no disagreement between agencies concerning the no-adverse-effect determination on the Alabama sturgeon, letters reaffirming the determination were exchanged between the Service's Regional Director and the Corp's Division Commander because of continued public concern. There is no disagreement between the agencies at the field, Regional, or District levels; therefore, there is no need to elevate this assessment to the national level.

Much of the assessment and conclusions of the White Paper, as well as of the more recent correspondence, was incorporated into the proposed rule under Factor A, and the White Paper (Biggins 1994) was cited for reference. The White Paper and all subsequent correspondence relating to the White Paper and Federal activities within Alabama sturgeon habitat are currently a part of the administrative record to list the sturgeon under the Act. Publishing the White Paper and pertinent correspondence would not add to, or detract from, the protection of the Alabama sturgeon under the Act, or affect or change any Federal agency's

responsibility under the Act. We have, however, included the White Paper at the end of this rule and expanded and clarified the discussion of it and its findings in this final rule.

Issue 42: In the 1994 White Paper, the Service and the Corps concluded that listing the sturgeon would have no impact on State water quality standards. However, EPA has agreed in a Memorandum of Agreement Regarding Enhanced Coordination under the Clean Water Act and Endangered Species Act (MOA) between EPA and us to consider the effects of their programs and activities on listed species. Under the Agreement, EPA agreed that modified regulations will prohibit mixing zones likely to cause jeopardy to listed species. Therefore, listing the Alabama sturgeon may require changes in State water quality standards throughout its historic range.

Response: Under Factor A, we note that pollution may have contributed to the decline of the Alabama sturgeon in the past. However, at this time, we have no information that current water quality regulations are not protective of the Alabama sturgeon.

The MOA between the Service and EPA is to ensure appropriate implementation of both the Clean Water Act and the Endangered Species Act. The MOA does not change, or add to, the legal responsibilities of either agency under either Act. Currently, there are 62 listed species in Alabama that are subject to consultation on water quality standards under the MOA.

Under the Endangered Species Act, Federal agencies, including EPA, are obligated to consider the effects of their actions, including permitting actions, on endangered and threatened species, and to avoid jeopardizing the continued existence of the species. Only actions impacting the species need to be considered. The Alabama sturgeon is believed to be extirpated from approximately 85 percent of its historic range in the Mobile River Basin. Based on current knowledge of the species, only Federal actions affecting the lower 216 km (134 mi) of the Alabama River need to be assessed for impacts on the Alabama sturgeon. We are unaware of any permitted discharge within this river reach, or anywhere else, that is likely to jeopardize the continued existence of the Alabama sturgeon.

Issue 43: EPA recently proposed additions to Alabama's 303(d) list, based in part, on the presence of federally listed species in streams. A substantial portion of the Mobile River Basin could become subject to 303(d) designation based solely on the habitat/historic range of the Alabama sturgeon.

Response: Streams proposed by EPA for addition to Alabama's 303(d) list, due to listed aquatic species, have to meet certain criteria. These include a documented decline or extirpation of the listed species since 1975, and an identified pollutant that contributes to that decline (such as sediment or nutrients). These criteria limit the 303(d) proposals to a few stream segments with demonstrated problems, affecting only a small number of the streams that support listed species in Alabama. Currently, no pollutants have been implicated in the decline or extirpation of the Alabama sturgeon from any stream segment since 1975. The listing proposal pointed out that two localized river segments above Claiborne Lock and Dam have been reported as occasionally impaired due to nutrients and organic enrichment; however, this is not considered a significant impact on the Alabama sturgeon. We do not anticipate requesting EPA to consider adding streams or stream segments to the State 303(d) list based on the past or present occurrence of the Alabama sturgeon.

Issue 44: Any violation of a discharge permit into waters supporting Alabama sturgeon could potentially result in take of the species under the Act. Since critical habitat was not proposed for the sturgeon, any violation of a National Pollutant Discharge Elimination System (NPDES) discharge permit within the sturgeon's historic habitat in the Mobile River Basin would be subject to civil and criminal penalties under the Act.

Response: Since 1994, it has been our policy to notify the public of activities that could potentially result in a violation of the Act in proposed regulations to list species. In the proposed rule, we identified discharge permit and water withdrawal permit violations as having the potential to result in a take of Alabama sturgeon. We have received many comments expressing concern that common, minor violations of NPDES discharge permits throughout the historic range of the sturgeon will be prosecuted as take of Alabama sturgeon. This is not our intent. Only violations that result in injury or death to the listed species would be prosecutable under the Act. However, since illegal discharge of pollutants is also identified as a potential take, we have removed the section on permit violations from the referenced discussion in this final rule. Permit violations that result in death or injury to Alabama sturgeon or any other federally listed species, however, could be considered take.

Issue 45: Listing the Alabama sturgeon would have an adverse impact on hydropower operations below Robert F. Henry and Millers Ferry Hydroelectric Projects, and may potentially impact operation of the Allatoona and Carters Hydroelectric Projects. There is also concern that the Service could make unsubstantiated claims of harm as a result of future changes in flow regimes in the lower Alabama River.

Response: The proposed rule noted that flow regimes below Millers Ferry Lock and Dam may have a negative effect on Alabama sturgeon reproduction and recruitment, based on studied responses of other sturgeon species to flow modifications within their habitats. However, we also noted that it is not currently known if this area is important to, or even used for, Alabama sturgeon reproduction. Therefore, we see no reason for recommending any modification of flow regime below Millers Ferry Lock and Dam at this time. Should future research determine that this area is important for sturgeon reproduction, and/or flow regimes were having a negative effect on sturgeon, we and the Corps would examine options available under section 7 consultation. Options might include working with the Corps and hydroelectric operator to provide more favorable flows for the sturgeon, and/or providing for any incidental take of sturgeon resulting from activities of the Corps and hydroelectric operator via an incidental take statement as part of a biological opinion.

Future proposed changes in flow regimes in the lower Alabama River should thoroughly consider potential impacts to the Alabama sturgeon, as well as other species. Continued research into the life history and habitat of Alabama sturgeon can provide a sound basis for future decisions regarding potential changes in flow regimes in the lower Alabama River.

The Alabama sturgeon is no longer believed to occur in the Millers Ferry Pool below Robert F. Henry Lock and Dam. The Allatoona and Carters hydroelectric projects in Georgia occur outside of, and are remote from, Alabama sturgeon's historic and currently occupied habitat. These projects are unlikely to affect the Alabama sturgeon, or be affected by its protection under the Act.

Issue 46: A recent economic impact analysis of the proposed listing, developed by economists at Troy State University, determined that a more than $15 billion adverse economic impact will result from listing the Alabama sturgeon as endangered. There should be a cost/benefit analysis conducted

prior to listing the Alabama sturgeon under the Act.

Response: Section 4(b)(1)(A) of the Act requires us to base our decision on whether to list a species solely on the best scientific and commercial data available on the species' status and precludes us from considering economic or other impacts that might result from the listing. Public comments directed to economic or other potential impacts of listing are outside the scope of this rulemaking.

Section 4(b)(2) of the Act does require us to consider economic or other impacts associated with the designation of critical habitat. However, we believe that the referenced economic impact analysis cited above was based upon a set of incorrect assumptions about how the proposed listing would affect economic activity throughout the Mobile River Basin. The referenced analysis made no attempt to identify or quantify any past or present economic impact associated with 38 aquatic species currently listed throughout the Basin. For example, there are listed species associated with all of the navigation channels of the Mobile River Basin, yet no negative economic impact on navigation, ports, or marinas due to the presence of these species was documented in the economic analysis. The analysis assumes, however, without justification or examples, that all waterways within the Mobile River Basin will be closed to navigation by the designation of endangered status to the Alabama sturgeon, and estimates economic consequences that might result from a halt in all navigation in the Tennessee-Tombigbee, Tombigbee, Black Warrior, Mobile, and Alabama River channels, and the closing of ports and marinas. The Alabama sturgeon currently inhabits only the lower Alabama River. The Corps and the Service have determined that navigation maintenance has no adverse effect on the Alabama sturgeon. The proposed rule specifically stated that maintenance dredging is unlikely to result in a take of Alabama sturgeon. Therefore, navigation, ports, and marinas will be economically unaffected by this listing.

The economic analysis also assumed that water withdrawals and discharges within the Alabama, Coosa, Tallapoosa, Cahaba, Tombigbee, Black Warrior, and Mobile Rivers and their tributaries would be capped at present levels should the sturgeon be listed. As noted above, the Alabama sturgeon currently inhabits only the lower Alabama River. Water withdrawal has not been identified as a threat to the Alabama sturgeon. In addition, all of the rivers assumed to be impacted by the analysis, and many of their tributaries, currently support populations of endangered and threatened species that have been listed for many years, and yet the analysis documented no negative economic impact from water withdrawal and discharge capping due to the presence of these listed species.

Issue 47: Listing the Alabama sturgeon may restrict the repair and/or construction of new and existing roads and bridges on the lower Alabama River.

Response: Section 7 of the Act requires Federal agencies, in consultation with us, to determine if their actions are likely to jeopardize the continued existence of listed species or adversely modify or destroy their critical habitat, and to conduct their activities in ways that are protective of listed species. This includes activities conducted or permitted by Federal agencies, such as road and bridge repair and construction. There are currently 38 listed aquatic species in the Mobile River Basin, including four currently inhabiting the Alabama River. As a result, consultations are a common occurrence in the Mobile River Basin, normally proceeding without attention of or impact to the general public. Based on our knowledge of conditions in the lower Alabama River, the life history and habitat of the Alabama sturgeon, and the localized and temporary nature of impacts associated with road and bridge construction, we do not foresee any restrictions necessary on bridge and road construction or repair resulting from addition of the Alabama sturgeon to the list of species protected under the Act.

Issue 48: Listing the Alabama sturgeon under the Act will result in third party lawsuits to stop Federal projects (such as maintenance dredging) or stop the issuance of discharge permits.

Response: Citizen suits are allowed under the Act. However, it has been our experience that fully complying with the requirements of the Act, as well as other Federal laws, is the best way to avoid citizen suits.

Issue 49: The Act clearly states that to the maximum extent prudent and determinable, critical habitat shall be designated concurrently with listing a species. By not proposing critical habitat concurrent with the listing, the proposal is in violation of the Act.

Response: Implementing regulations allow us to determine that critical habitat designation is not prudent if such designation would result in an increase in threat to the species, or if designation does not benefit the species. In the proposal, we determined that because of the limited range of the species, critical habitat would provide no additional benefit for the species beyond that which it would receive from listing. In addition, we were concerned that an adverse public reaction to critical habitat designation would result in loss of cooperation by fishermen and other partners in current conservation efforts. Therefore, in the proposed rule we concluded that designation of critical habitat for the Alabama sturgeon was not prudent.

During the public comment period, we received numerous comments from both proponents and opponents of the species listing that favored designation of critical habitat. Due to this public response, we now believe that it is unlikely than any adverse effect on the sturgeon would occur as a result of critical habitat designation, and that such designation is indeed prudent, but not determinable at this time. Section 4(b)(6)(C) of the Act provides that a concurrent critical habitat determination is not required with a final regulation implementing endangered status and that the final designation may be postponed for one additional year beyond the period specified in section 4(b)(6)(A), if (I) a prompt determination of endangered or threatened status is essential to the conservation of the species, or (ii) critical habitat is not then determinable (see Critical Habitat section).

Issue 50: The Service did not provide actual notice of the proposed regulation to list the Alabama sturgeon to ADCNR, or to each of the three Alabama counties in which the sturgeon currently exists, as the Act requires.

Response: We provided advance notification, by facsimile, to the Governor of Alabama, the ADCNR, and the County Commissions of Wilcox, Clarke, Monroe, and Baldwin Counties, as well as other parties, of the proposal the day before its publication in the **Federal Register**. Upon publication of the proposal, we mailed them copies of the complete text as published in the **Federal Register** and solicited their comments. We have fully complied with the notification requirements of the Act.

Issue 51: The Service's proposed listing is based on the historic range of the Alabama sturgeon; therefore, the Service may be required to give actual notice to almost every county in Alabama and several counties in Mississippi.

Response: We are required to give notice and invite the comments of each county in which the species proposed for listing is believed to occur (see 50 CFR 424.16(c)(1)(ii) and 16 U.S.C. 1533(b)(5)(A)(ii)). The sturgeon is

extirpated from about 85 percent of its historic range in Alabama and Mississippi. It is currently believed to inhabit the Alabama River in Clarke, Monroe, and Wilcox Counties. We gave these counties notice of the proposed regulation and solicited their comments.

Issue 52: The Service must comply with the National Environmental Policy Act (NEPA) when designating critical habitat.

Response: Environmental assessments and environmental impact statements, as defined under NEPA, are not required for regulations enacted under section 4(a) of the Act (see 48 FR 49244). Please refer to the NEPA section of this final rule.

Issue 53: In submitting the proposed rule to scientific specialists for review, the Service must comply with the Federal Advisory Committee Act (FACA).

Response: FACA applies to committees established by Federal agencies to provide recommendations and advice to an agency. We provided copies of the proposed rule to five scientific specialists for independent review during the open comment period. We received individual comments from four of these reviewers during the open comment period. The fifth scientist provided comments through the Alabama-Tombigbee Rivers Coalition during the open comment period. Our request and receipt of comments from individual peer reviewers during the open comment period is fully consistent with FACA requirements.

Issue 54: The Service must comply with Executive Order 12866 and prepare a Regulatory Plan.

Response: Because section 4(b)(1)(A) of the Act specifically prohibits consideration of information other than scientific and commercial information, we are prohibited from applying the procedures of Executive Order 12866 to proposed and final listings.

Issue 55: The Service must prepare a regulatory flexibility analysis.

Response: In accordance with the requirements of section 4(b)(1)(A) of the Act mentioned under Issue 54 above, the Regulatory Flexibility Act does not apply to listing actions.

Issue 56: The Alabama strugeon is protected by the State and there is a State-managed 1997 Conservation Plan in place. Listing the Alabama sturgeon will provide no added benefits to the current conservation efforts. There is no need for Federal protection of this species.

Response: We acknowledge that the State of Alabama protects the Alabama sturgeon from scientific and recreational take, and has implemented conservation efforts for the species. To date, the 1997 Conservation Plan has not been successful at improving the status of the species such that it no longer requires protection under the Act. Section 4(a)(1) of the Act requires us to determine whether any species is an endangered species or a threatened species because of any of five factors. Listing the Alabama sturgeon will not detract from the efforts of the 1997 Conservation Plan. The Act requires us to cooperate with State agencies in conserving endangered species, and we will continue to cooperate with the ADCNR in conserving the Alabama sturgeon. Listing will also augment protection and conservation of the Alabama sturgeon. The Act requires Federal agencies to use their authorities to conserve listed species. Without protection under the Act, there is no legal requirement to specifically consider the effects of new Federal projects funded, carried out, or permitted within the Alabama sturgeon's habitat. Since many of the activities associated with the Alabama River channel habitat used by the sturgeon are funded, carried out, or permitted by Federal agencies, the Federal agency conservation responsibilities invoked by the Act will benefit the species. This does not mean that activities of Federal agencies or permittees will be impeded, rather that projects will be planned and implemented in ways that reduce harm or injury to the species, and avoid jeopardizing its continued existence.

Issue 57: It is not clear that listing the Alabama sturgeon will result in its recovery.

Response: The Act allows us to only consider information related to a species' status when determining as to whether protection is warranted under the Act. Therefore, we may not consider the feasibility of recovery in determining whether to list a species.

Issue 58: Listing the Alabama sturgeon under the Act may create restrictions on numerous permit actions.

Response: Federal agencies are required under the Act to consider the effects of their actions, including issuing permits, on endangered and threatened species. In cases where the action affects the species, the agency is required to consult with us. If during consultation, the action is determined to likely jeopardize the species' continued existence, it may be significantly modified, or even prohibited. However, this is rarely the case. In over 1,000 consultations in Alabama over the past decade, only two consultations resulted in a jeopardy determination, and in both of these cases, the programs were modified and went forward. In most cases, projects that may affect listed species have been slightly modified to reduce or eliminate the effect, and/or the resulting biological opinion anticipates some level of take of the species, which is exempted from section 9 prohibitions. In addition, we and the Corps have already determined that most Corps permitting activities in the lower Alabama River currently are not known to adversely affect the Alabama sturgeon. Therefore, it is unlikely that listing the sturgeon under the Act will create restrictions on numerous permit actions.

Fain et al. (2000) Report

During the open comment period for the Fain *et al.* (2000) report on river sturgeon genetics, we received six comments and one peer-reviewed manuscript. One commenter felt that the use of mtDNA for forensics purposes should be thoroughly peer-reviewed for all sturgeon species. Two commenters believed that the report established that the Alabama sturgeon should not be considered a distinct species. Three commenters noted that the report establishes only that the cytochrome-*b* gene is not useful for examining genetic variation within the genus *Scaphirhynchus* and two other sturgeon species groups. The peer-reviewed manuscript we received during the comment period concluded that current mtDNA data provide a potentially diagnostic genetic character supporting taxonomic recognition of the Alabama sturgeon as a distinct species. Below are issues raised in these comments relating to this action and our responses to each.

Issue 59: Alabama and shovelnose sturgeons are genetically identical.

Response: A study by Schill and Walker (1994), discussed in the background section of the proposed rule, found no sequence divergence in a cytochrome *b* mtDNA sequence between a single specimen of the Alabama sturgeon and shovelnose sturgeon. All subsequent genetic studies with larger samples of Alabama and shovelnose sturgeons have revealed genetic differences between samples of the two species. Cytochrome *b* mtDNA sequences reported by Fain *et al.* (2000) indicate that the Alabama sturgeon sample had only one sequence type, A, whereas the shovelnose sturgeon sample included two sequence types, B and C, that were not found in the Alabama sturgeon sample. Although sequence A was found in both, it differed in frequency in Alabama (frequency = 1.0) and shovelnose (frequency = 0.86) sturgeons. Fain *et al.* (2000) concluded that these differences were not

diagnostic for forensic purposes. Campton *et al.* (in press) report a unique mtDNA sequence at the mtDNA control region found in all three Alabama sturgeons sampled, but was not found in any of a sample of 37 shovelnose sturgeon and putative shovelnose/pallid sturgeon hybrids. This potentially diagnostic genetic marker differed from the most similar shovelnose and pallid sturgeon sequences by a unique base-pair substitution. These results were confirmed by those of Mayden *et al.* (1999), which are discussed in our response to Issue 24. Nuclear DNA divergence detected between Alabama sturgeons and other *Scaphirhynchus* reported by Genetic Analyses, Inc., (1994, 1995) is discussed in our responses to Issues 20 and 22 and in the Background section of this rule.

Issue 60: Genetics is the best science for making taxonomic determinations and trumps morphological analyses.

Response: The most scientifically credible approach to making taxonomic determinations is to consider all available data involving as many different classes of characters as possible. Classes of characters that can be considered include morphological, karyological (chromosomal), biochemical (including DNA analysis and other molecular genetic techniques), physiological, behavioral, ecological, and biogeographic characters (Wiley 1981). The consideration given to any given class of characters in making a taxonomic decision depends on several factors. These include the availability and quality of the data, the appropriateness of the method and design of the study to the taxonomic issue in question, and the demonstrated utility of the method to similar issues or taxonomic groups. Genetic data have their greatest utility in making species-level taxonomic determinations when the putative species are sympatric (occur together) and the degree of natural genetic interaction can be evaluated. When the putative species are allopatric, as with Alabama and shovelnose sturgeons, genetic data provide a measure of divergence that must be evaluated along with all other available measures of divergence in making a determination whether species-level differences exist. When sample sizes are small, either in terms of number of individuals or number of genetic regions or loci tested, the taxonomic value of genetic data is diminished.

Issue 61: Based on the study by Fain *et al.* (2000), Alabama and shovelnose sturgeons are the same species (conspecific).

Response: The study of Fain *et al.* (2000) was designed to develop a procedure for the forensic identification of caviar; it was not designed to critically examine the taxonomy of sturgeons of the genus *Scaphirhynchus*. Their choice of a portion of the cytochrome *b* sequence is reasonable for their purpose of evaluating a number of different genera distributed over a wide geographic range across different continents. Failure to find a diagnostic marker for Alabama sturgeon in a gene region chosen to have a somewhat conservative rate of divergence does not mean that it is not a species or that genetic differences were not found; genetic differences are discussed in our response to Issue 59. Fain *et al.* (2000) observe that when minimal genetic variation is found with such a technique, it can mean that the species have recently diverged and there has not been time for fixation of genetic differences. That species formation can take place more rapidly than differentiation of genetic markers can become established has long been appreciated by systematists and taxonomists applying genetic data (Avise 1994). Cytochrome b is not the best choice of a genetic region for resolving the closely related species in the genus *Scaphirhynchus*. In such cases it is appropriate to examine a gene region known to have a faster rate of evolution that might be reflected in a difference between species. The study of Campton *et al.* (in press) employed the more rapidly evolving control region of mtDNA with the results described under Issue 59. Campton *et al.* (in press) also discuss other cases where speciation has occurred in fishes with very little genetic divergence in cytochrome *b*, and Fain *et al.* (2000) identifies lack of divergence between pairs of other sturgeon species. Interpreted in light of the minimal gene regions studied, the small sample sizes of Alabama sturgeon, and evidence from other species that species formation can occur with minimal detectable genetic differentiation in DNA regions commonly studied, the genetic data are consistent with and do not demand the rejection of taxonomic conclusions based on morphological and biogeographical data that the Alabama sturgeon qualifies for recognition as a valid species.

Conservation Agreement Strategy

During the open comment period for the Conservation Agreement Strategy, we received 259 letters recommending implementation of the Strategy and withdrawal of the listing action. We also received five letters opposing the use of the Strategy to preclude listing. Below are issues raised in these comments relating to this action and our responses to each.

Issue 62: The Conservation Agreement Strategy fully addresses the threats identified in the proposed listing rule. Therefore, it provides the basis for either withdrawing the listing action for the Alabama sturgeon, or listing as threatened instead of endangered.

Response: Conservation actions for the Alabama sturgeon have been conducted over the past years by the State of Alabama, other concerned parties and us under a Conservation Plan. These actions have been successful to the extent of increasing our knowledge of methods to capture the fish and maintain it in captivity. However, the species remains vulnerable to extinction because of its small population size and restricted range. Early this year we were requested by the State of Alabama to develop and enter into a formal Conservation Agreement and Strategy with the State and others to continue and to increase conservation efforts for the Alabama sturgeon. We collectively developed a conservation strategy that is technologically and economically feasible and that has a good chance of addressing the threats to the continued existence of the Alabama sturgeon. We also released the Conservation Agreement Strategy for public review and comment. We then reviewed the comments received, and considered the certainty and effectiveness of the Conservation Agreement Strategy as it relates to the current and future status of the sturgeon.

We concluded that the Conservation Agreement Strategy is the best approach for conservation of the Alabama sturgeon; however, the certainty and effectiveness of these efforts in removing existing threats remain unproven and dependent upon many factors beyond human control. For example, the Strategy can only be effective if sufficient mature fish of both sexes can be captured. In the past 4 years we have only captured five fish, of which only one was in reproductive condition. While the Strategy calls for a dramatic increase in capture efforts over the next decade, the capture of sufficient fish in appropriate condition cannot be assured.

Collection history and anecdotal accounts from commercial fishermen indicate that the numbers of Alabama sturgeon have been declining since the construction of dams in the Alabama River during the 1960's and early 1970's. It is currently unknown if this decline is an effect of low population

numbers and the subsequent inability of the fish to reproduce successfully, or a result of inadequate habitat quantity, or a combination of factors.

Although the successful implementation of the Conservation Agreement Strategy will maintain current habitat quantity and quality and provide information on the habitat needs of the Alabama sturgeon, we cannot currently predict what effect that information may have on the future status of the species. Therefore, based on our analysis, the Conservation Agreement Strategy does not remove existing threats to the Alabama sturgeon to a degree to where it no longer warrants listing under the Act. The Conservation Agreement Strategy, however, does provide the best available actions for the conservation of the Alabama sturgeon, and may lead to its eventual recovery. The Strategy has outlined what the species needs for recovery, and it will make an excellent recovery plan.

Issue 63: The Conservation Agreement Strategy fails to address the factors sufficiently to have an effect on the listing determination of the Alabama sturgeon.

Response: We concur that the Strategy does not remove threats to the Alabama sturgeon to a degree that precludes its need for protection under the Act. However, the Conservation Agreement Strategy can influence many future actions covered under sections 4, 6, and 7 of the Act. For example, the Strategy provides the basis for an Alabama sturgeon recovery plan, identifying current and future recovery actions essential to the species' conservation. The Conservation Agreement Strategy could become the State's program to conserve the sturgeon under section 6 of the Act. In addition, the Corps' involvement, commitments, and actions under the Conservation Agreement Strategy would, in large part, fulfill their conservation obligations under section 7(a)(1) of the Act. Positive results of the Conservation Agreement Strategy could facilitate future section 7(a)(2) consultations.

Issue 64: The Department of the Interior had already made a decision regarding the listing of the Alabama sturgeon when the comment period opened in February.

Response: As stated in the February 16, 2000, **Federal Register** notice (65 FR 7817), we reopened the comment period to obtain public comment on the Conservation Agreement Strategy's relevance and significance to the upcoming listing decision. We reviewed all comments received prior to making a determination to list the Alabama sturgeon as an endangered species.

Issue 65: The Conservation Agreement Strategy failed to allow public involvement in the development of the conservation goals and strategies, and did not appear to include consultation with scientific authorities with expertise in population ecology or dynamics. The result is an agreement that fails to consider the geographic scale needed for long term survival of the species.

Response: Much of the Conservation Agreement Strategy is based upon the 1997 Conservation Plan. This Plan had wide distribution and input, including that of private and public professional fisheries biologists and ecologists. Little had changed since development of the 1997 Conservation Plan. The parties used that Plan as a starting point and developed the Conservation Agreement Strategy. The Conservation Agreement Strategy was executed by the parties prior to public comment because the signatories were concerned, in part, about losing prime spawning time for the Alabama sturgeon if execution was delayed until after public comment. The parties to the Conservation Agreement Strategy agreed that an open comment period after execution was appropriate to provide the public and scientific community the opportunity for input in the Conservation Agreement Strategy, its objectives and its associated tasks, and that Strategy 2000 would be modified as deemed appropriate by the signatories.

Issue 66: The Service did not follow the rules of FACA when developing the Conservation Agreement Strategy.

Response: The Conservation Agreement Strategy is a joint effort by the parties to eliminate or significantly reduce current threats to the Alabama sturgeon. Entering into such agreements with states, other federal government entities and other interested private parties to accomplish mutual goals is a routine practice of the Service and other federal agencies. These are not the type of activities that are subject to FACA.

Peer Review

In accordance with our July 1, 1994 (59 FR 34270), Interagency Cooperative Policy on Peer Review, we requested the expert opinions of independent specialists regarding pertinent scientific or commercial data and assumptions relating to the supportive biological and ecological information in the proposed rule. The purpose of such review is to ensure that the listing decision is based on scientifically sound data, assumptions, and analyses, including input of appropriate experts and specialists.

We requested five academicians who possess expertise on Alabama and shovelnose sturgeon taxonomy and systematics to review the proposed rule by the close of the comment period. Four of these individuals responded directly to our request. All expressed their belief that the data support protection of the Alabama sturgeon under the Act. Three peer reviewers strongly supported the taxonomic status of the Alabama sturgeon, and two of these provided supporting information. One reviewer expressed some personal doubt regarding taxonomic status of the Alabama sturgeon, but felt the fish represented a subspecies, or at a minimum, a unique population that needed protection under the Act. This individual also noted that Mayden and Kuhajda (1996) convincingly argued for species status.

The fifth reviewer did not directly respond to our request for peer review; however, he provided comments opposing the proposal at the public hearing and through an organization opposed to the listing. We have addressed these comments in the Summary of Comments and Recommendations section, above.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, we determine that the Alabama sturgeon should be classified as an endangered species. We followed the procedures found at section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) issued to implement the listing provisions of the Act. We may determine a species to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Alabama sturgeon (*Scaphirhynchus suttkusi* Williams and Clemmer 1991) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The best available data indicate that the Alabama sturgeon has disappeared from 85 percent of its historic range. Its decline has been associated with construction of dams, flow regulation, navigation channel development, other forms of channel modification, and pollution. Dams in the Alabama River have reduced the amount of riverine habitat, impeded migration of Alabama sturgeon for feeding and spawning needs, and changed the river's flow patterns. The species is now restricted to a 216-km (134-mi) reach of the Alabama River below Millers Ferry Lock and Dam, downstream to the mouth of

the Tombigbee River. Whether the quantity of fluvial (stream) habitat currently available to the species in this river reach is adequate to meet all of the ecological needs of a self-sustaining population is unknown.

Changes in natural river flow regimes by operation of hydroelectric dams are known to be detrimental to other sturgeon species (*e.g.,* Khoroshko 1972, Zakharyan 1972, Veshchev 1982, Veshchev and Novikova 1983, Auer 1996). Flow quantity is believed to be adequate to maintain sturgeon in the lower Alabama River below Claiborne Lock and Dam (Biggins 1994). The Alabama Power Company currently releases 57 cubic meters per second (cms) (2,000 cubic feet per second (cfs)) seasonal minimum flow from Jordan Dam into the lower Coosa River, and 34 cms (1,200 cfs) minimum flow from Thurlow Dam into the lower Tallapoosa River. These two releases provide a combined 91 cms (3,200 cfs) minimum flow to the upper Alabama River for passage through the three Alabama River locks and dams. Alabama River flows are further augmented by generating flows from Jordan, Thurlow, and Bouldin dams, as well as other Alabama River tributary flows. The average daily flows measured over the last decade downstream of Claiborne Lock and Dam have ranged from over 100 cms to nearly 7,000 cms (3,500 to 247,000 cfs). While no evidence suggests that the Alabama sturgeon is limited by water quantity below Robert F. Henry and Millers Ferry Locks and Dams, these dams house hydropower facilities and neither is required to maintain a minimum flow. Current low flow releases from these two facilities can be as little as 3 hours of generation timed according to peaking needs, plus lockage releases. The effect of such daily flow fluctuations below Millers Ferry Lock and Dam on Alabama sturgeon reproductive, larval, or juvenile habitat requirements may be negative; however, the importance of the area between Robert F. Henry and Claiborne lock and dams for sturgeon reproduction is currently unknown.

The most visible continuing navigation impact within presently occupied Alabama sturgeon habitat is maintenance dredging of navigation channels. We have no evidence that such dredging currently constitutes a limiting factor to the sturgeon (Biggins 1994). The Corps has constructed 67 channel training works (jetties) at 16 locations in the lower Alabama River, eliminating about 60 percent of dredging requirements at those locations. In the Mississippi River drainage, such channel training works are believed to be used as spawning areas by other sturgeon species (Mayden and Kuhajda 1996).

Maintenance dredging continues to be necessary in the Alabama River to remove seasonally accumulated material from deposition areas within the navigation channel. Dredged materials are usually placed on natural deposition features adjacent to the navigation channel, such as point bars or lateral bars. Due to the natural dynamics of river channels and annual sediment movement, maintenance areas have remained fairly constant over time, with the same areas repeatedly dredged or used for disposal. Recent investigations by the Corps, ADCNR, and us indicate that the distribution of stable benthic (bottom) habitats in the riverine portions of the Alabama River has been, and continues to be, strongly influenced by historical dredge and disposal practices. Changes in disposal practices could disrupt the existing equilibrium. For example, river channels are strongly influenced by the amount of sediment moving through them. Increases in sediment budget can cause aggradation (filling) of the channel, while decreases in sediment can cause degradation (erosion). With the upstream dams forming barriers to the movement of sediment through the Alabama River, additional reduction of sediment availability (*e.g.,* through upland disposal) could increase river bed and bank erosion, including areas that are now important, stable habitats. In consideration of this situation, significant changes in current disposal methods in the Alabama River could adversely affect the Alabama sturgeon.

Recent investigations by ADCNR biologists and us have documented the presence of high-quality, stable river bottom habitats interspersed within and between dredge and disposal sites in the lower Alabama River (Hartfield and Garner 1998). These habitats included stable sand and gravel river bottom supporting freshwater mussel beds, and bedrock walls and bottom. Mussel beds are excellent indicators of riverine habitat stability because freshwater mussels may live in excess of 30 years, and mussel beds require many decades to develop (Neves 1993). Clean bedrock has been identified as potential Alabama sturgeon spawning habitat (Mayden and Kuhajda 1996). The significance of such areas of stability are suggested by the location of recent and historic Alabama sturgeon capture sites below Millers Ferry and Claiborne locks and dams. Dive surveys at 19 capture sites dating back to 1950 found 17 in the vicinity of dense mussel beds (15 sites) and/or clean bedrock riverine habitat (11 sites) (Hartfield and Garner 1998). Depths at these areas (5 to 15 m (16 to 49 ft)) are well below the minimum navigation maintenance depth of 3 m (9 ft).

Sand and gravel mining has had historic impacts on riverine habitats in the lower Tombigbee and Alabama river channels. Instream dredging for sand and gravel can result in localized biological and geomorphic changes similar to those caused by channelization and navigation channel development. For example, mining of rivers has been shown to reduce fish and invertebrate biomass and diversity and can induce geomorphic changes in the river channel both above and below mined areas (Simons *et al.* 1982, Brown and Lyttle 1992, Kanehl and Lyons 1992, Hartfield 1993, Patrick and Dueitt 1996). Sand and gravel dredging of the Tombigbee and Alabama river channels within the historic and current range of the Alabama sturgeon has occurred periodically since the 1930s (Simons *et al.* 1982). We are not aware of any currently active sand and gravel dredging operations in the Alabama River. However, mining of gravel from stable river reaches used by the Alabama sturgeon would be detrimental to the species.

Water pollution may adversely impact sturgeon (Ruelle and Keenlyne 1993) and was likely a factor in the decline of the Alabama sturgeon, especially prior to implementation of State and Federal water quality regulations. Currently, the major sources of water pollution in Alabama are agriculture, municipal point sources, resource extraction, and contaminated sediments, in order of decreasing importance based on numbers of miles impaired (Alabama Department of Environmental Management 1994). Water quality in the lower Alabama River is generally good; however, two localized river segments above Claiborne Lock and Dam have been reported in the past as occasionally impaired due to excess nutrients and organic enrichment (Alabama Department of Environmental Management 1994). Sources of impairment were broadly identified as the combined effects of industrial and municipal discharges, and runoff from agriculture and silviculture. These river segments are also affected by hydropower discharges from Millers Ferry Lock and Dam. In 1994, an impact analysis on Federal activities in the Alabama River (Biggins 1994) concluded that no information suggests that current fish and wildlife standards for water quality are not protective of the Alabama sturgeon and that State water quality standards would not need

to be increased should the sturgeon be protected under the Act. No information developed since 1994 suggests otherwise.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* As discussed in the ''Background'' section of this final rule, the Alabama sturgeon was commercially harvested around the turn of the century. Alabama State law (sect. 220–2–.26–4) now protects the Alabama sturgeon and other sturgeons requiring that * * * any person who shall catch a sturgeon shall immediately return it to the waters from whence it came with the least possible harm. As a result, sturgeon are not currently pursued by commercial or recreational fishermen. Nonetheless, Alabama sturgeon are occasionally caught by fishermen in nets or trot lines set for other species. For example, one of the Alabama sturgeons caught in 1995 was hooked by a fisherman on a trot line, and the Alabama sturgeon caught in 1996 was trapped in a hoop net; both of these fish were released. Doubtless, there have been additional, undocumented incidental captures by commercial and sport fishermen. However, the surveys and collection efforts of the past decade have shown such captures to be rare.

C. *Disease or predation.* The Alabama sturgeon has no known threats from disease or natural predators. To the extent that disease or predation occurs, such threats become a more important consideration as the total population decreases in number.

D. *The inadequacy of existing regulatory mechanisms.* As we discussed under factor B, Alabama State law (sect. 220–2–.26–4) protects the Alabama sturgeon and other sturgeons requiring that * * * any person who shall catch a sturgeon shall immediately return it to the waters from whence it came with the least possible harm. As a result, sturgeon are not currently pursued by commercial or recreational fishermen. State regulations, however, do not generally protect the Alabama sturgeon from other threats. Several regulatory mechanisms currently benefit the Alabama sturgeon and its habitat (*e.g.,* Clean Water Act and associated State laws, Fish and Wildlife Coordination Act, Federal Power Act, National Environmental Policy Act, Rivers and Harbors Act). However, within the scope of other environmental laws or Alabama State law, there is currently no requirement to specifically consider the effects of actions on the Alabama sturgeon and ensure that a project is not likely to jeopardize its continued existence.

E. *Other natural or manmade factors affecting its continued existence.* The primary threat to the immediate survival of the Alabama sturgeon is its small population size and its apparent inability to offset mortality rates with current reproduction and/or recruitment rates. As noted in the Background section, incidents of capture of Alabama sturgeon have been steadily diminishing for the past two decades, indicating declining population numbers over this time. Studies also demonstrate that small populations are inherently highly vulnerable to extinction (Soule 1987). In such cases, the species becomes very vulnerable to natural or human-induced events (*e.g.,* droughts, floods, competition, variations in prey abundance, toxic spills), which may further depress recruitment or increase mortality (Belovsky 1987, Shaffer 1987).

Sturgeon species may be especially vulnerable to small population size for several reasons. Age at first spawning (ranging from 5 to 7 years for shovelnose sturgeon) is much delayed in comparison to many other fishes, and female sturgeons may not spawn for intervals of several years (Wallus *et al.* 1990). A recent attempt to propagate Alabama sturgeon at the Marion State Fish Hatchery indicates that males may not spawn annually as well. Thus, the number of adult males and females capable of reproducing in a given year is much smaller than the actual numbers of adult sturgeon present. Also, recruitment success in fish is subject to considerable natural variability owing to fluctuations of environmental conditions, and several years can pass between periods of good recruitment. Sturgeon may compensate for some of these aspects of their natural history by producing large quantities of eggs per female. However, successful spawning and production of large numbers of offspring by a single or a few fish may result in reduced genetic diversity for the overall population.

Currently, no population estimates exist for the Alabama sturgeon. Recent collection efforts demonstrate its increasing rarity. For example, beginning in the spring of 1997 through 1999, up to four crews of professional fisheries biologists have expended approximately 4,000 man-hours of fishing effort in the lower Alabama River to capture Alabama sturgeon for use as broodstock. This effort resulted in the capture of only five Alabama sturgeon, three of which have died in captivity. An additional incidental catch and release was reported by a commercial fisherman. Thus, approximately 18 months of fishing by professional, commercial, and recreational fishermen resulted in the capture of only six Alabama sturgeon. Compared to the estimated 20,000 Alabama sturgeon reported in the 1898 harvest, the amount of effort currently required to capture Alabama sturgeon indicates that the species' population numbers are extremely low. This determination strongly indicates that the Alabama sturgeon is highly susceptible to the negative effects of a small population size and this factor, coupled with the reproduction characteristics of its natural history, renders the species very vulnerable to extinction.

State Conservation Efforts

Section 4(b)(1)(A) requires us, in making a listing determination, to take into account efforts being made by the State to protect the Alabama sturgeon. In 1996, the ADCNR developed a conservation plan for the Alabama sturgeon that attempted to address the most immediate threat to the species, its small population size. A variety of public and private groups, including the Service, Army Corps of Engineers, Geological Survey of Alabama, Auburn University, the Alabama-Tombigbee Rivers Coalition, and the Mobile River Basin Coalition have participated in, and/or endorsed, this plan. The immediate focus of the plan is to prevent extinction through a captive breeding program and release of propagated fish. Other objectives of the plan include genetic conservation, habitat restoration, and determining life history information essential to effective management of the species. A freshwater sturgeon conservation plan working group composed of scientists and resource managers from a variety of Federal and State agencies, industry, and local universities was formed in September 1996 to establish collection and handling protocols, and to recommend and participate in research efforts. Implementation of the conservation plan began in March 1997, with broodstock collection efforts. To date, five fish have been captured; however, three of these have died. Two male sturgeon are currently held at the Marion State Fish Hatchery. The hatchery has been upgraded to accommodate sturgeon propagation. An unsuccessful attempt to spawn the captive sturgeon was conducted during March 1999 (see Background section). Coordinated studies are currently in progress by the ADCNR, Corps, and us to identify and quantify stable riverine habitat in the Alabama River, and to develop strategies for its management. Life history and habitat studies in progress include habitat

characterization at historic sturgeon collection sites, prey density studies, and larval sturgeon surveys. To date, the 1997 Conservation Plan has not been successful in decreasing the threat of extinction to where protection under the Act is no longer warranted.

On February 9, 2000, the ADCNR, the Corps, the Alabama-Tombigbee Rivers Coalition, and the Service signed a formal 10-year Conservation Agreement and Strategy for the Alabama Sturgeon. The goal of the 10-year Conservation Agreement Strategy is to eliminate or significantly reduce current threats to the Alabama sturgeon and its habitat. Attaining the goal of the Conservation Agreement Strategy will require accomplishment of the following objectives: (1) Restore and maintain sufficient numbers of Alabama sturgeon in the lower Alabama River to ensure its long-term survival by increasing the numbers of sturgeon through hatchery propagation and augmentation; and (2) identify and protect existing occupied Alabama sturgeon habitat quantity and quality, develop information on the sturgeon's life history and habitat needs, and use this information to implement appropriate conservation measures and adaptive management strategies for the Alabama sturgeon and its habitat. The objectives will be accomplished through implementation of the Conservation Agreement Strategy for the Alabama Sturgeon.

The Conservation Agreement Strategy for the Alabama Sturgeon describes specific actions and strategies required to expedite implementation of conservation measures for the Alabama sturgeon to ensure the long-term viability of the species, and to establish benchmarks to measure the success of the program. The general conservation goals are to increase sturgeon numbers to a viable, self-sustaining level; maintain habitat currently occupied by the sturgeon; conduct research necessary to understand sturgeon life history and ecology and use this information to manage the species; identify occupied habitat within the lower Alabama River that might support sturgeon with appropriate management; and insure sturgeon accessibility to essential habitat that is identified through research.

The success of implementation during the life of the Agreement and Strategy will be measured by annual reviews to address the following: (1) Successful collection of broodstock; (2) successful hatchery propagation; (3) initial augmentation of the remaining wild stock of the species with hatchery-spawned Alabama sturgeon; (4) protection of existing occupied habitat; (5) extending knowledge of the species' natural history, life cycle, and ecological needs; and (6) development and implementation of appropriate adaptive management strategies to conserve the species.

Implementation of the Conservation Agreement Strategy is the most viable approach to conservation of the Alabama sturgeon, based on current technology and information. However, the certainty on the effectiveness of these efforts in removing existing threats remain unproven and dependent upon many factors beyond human control. Therefore, the Alabama sturgeon still warrants protection under the Act (see responses to Issues 62 to 66).

The Mobile River Basin Aquatic Ecosystem Recovery Coalition, a partnership comprising diverse business, environmental, private landowner, and agency interests, has been meeting regularly to participate in recovery planning for 15 listed aquatic species in the Basin (U.S. Fish and Wildlife Service 1998). The Coalition promotes increased stewardship awareness by private landowners throughout the Basin, and encourages the control of non-point source pollution through the implementation of Best Management Practices. All aquatic habitats, including Alabama sturgeon habitat, will benefit from such efforts.

In determining to make this rule final, we have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the Alabama sturgeon, while taking into account ongoing conservation efforts and commitments by the State and others. Based on our evaluation, the most appropriate action is to list the Alabama sturgeon as endangered. The Act defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range. The species is currently limited in distribution to a small portion of its historic range and is blocked by dams from recolonizing other portions of that range. Whether the quantity of habitat currently available to the Alabama sturgeon is adequate to meet the needs of a self-sustaining population is unknown. In addition, the Alabama sturgeon is vulnerable to extinction due to its small population size, aggravated by certain characteristics of its reproduction. Ongoing conservation efforts to increase sturgeon numbers have to date met with limited success.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (I) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Conservation means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Section 4(b)(2) of the Act requires us to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of its inclusion, unless to do so would result in the extinction of the species. Our regulations (50 CFR 424.12(a)(2)) state that critical habitat is not determinable if information sufficient to perform the required analysis of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat.

In the proposed rule, we found that critical habitat designation for the Alabama sturgeon was not prudent because we believed it would provide no additional benefit beyond that of the listing. We also indicated that the designation of critical habitat was not prudent because of our concern that such designation could harm the species as a result of adverse public reaction and loss of cooperation by fishermen and other partners in ongoing conservation efforts. However, during the open comment period, we received numerous comments favoring critical habitat designation for the Alabama sturgeon. Commercial fishermen also continued to cooperate in conservation actions during the open comment period. Due to this response, we no longer believe that any significant adverse public reaction will result from the designation of critical habitat for the Alabama sturgeon.

In the absence of a finding that critical habitat would increase threats to a species, if any benefits would result

from critical habitat designation, then a prudent finding is warranted. In the case of the Alabama sturgeon, designation of critical habitat may provide some benefits. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, in some instances, section 7 consultation might be triggered only if critical habitat is designated. Examples could include unoccupied habitat or presently occupied habitat that may become unoccupied in the future. In addition, some educational or informational benefits may result from designating critical habitat. Therefore, we now find that critical habitat designation is prudent, but not determinable, for the Alabama sturgeon.

Section 4(b)(6)(C) of the Act provides that a concurrent critical habitat determination is not required with a final regulation implementing endangered status and that the final designation may be postponed for one additional year beyond the period specified in section 4(b)(6)(A), if (I) a prompt determination of endangered or threatened status is essential to the conservation of the species, or (ii) critical habitat is not then determinable. We believe that a prompt determination of endangered status for the Alabama sturgeon is essential to its conservation. Listing the sturgeon will augment protection for the species, require consideration by Federal agencies of the effects of their actions on its survival, and allow recovery planning to proceed, while allowing us additional time to evaluate critical habitat needs. While we received a number of comments advocating critical habitat designation, none of these comments provided information that added to our ability to determine critical habitat. Additionally, we did not obtain any new information regarding specific physical and biological features essential for the Alabama sturgeon during the open comment period or the public hearing. The biological needs of the Alabama sturgeon are not sufficiently well known to permit identification of areas as critical habitat. Insufficient information is available on spawning and juvenile habitat, instream flow needs, water quality, and other essential habitat features. Through ongoing studies we are attempting to better ascertain the biological needs of the Alabama sturgeon and the habitat essential to those needs. This information is considered essential for determining critical habitat. Prior to a final designation, maps of proposed critical habitat, identification of essential features, and an economic analysis of any incremental regulatory effects (additive to the species listing) will be released for public review and comment. Protection of Alabama sturgeon habitat will be provided during the interim through the recovery process, the section 7 consultation process, and section 9 prohibitions on take.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

Federal activities that could occur and impact the Alabama sturgeon include, but are not limited to, the carrying out or the issuance of permits for reservoir construction, stream alterations, discharges, wastewater facility development, water withdrawal projects, pesticide registration, mining, and road and bridge construction. In our experience, nearly all section 7 consultations have been resolved so that the species have been protected and the project objectives have been met.

In addition, section 7(a)(1) of the Act requires all Federal agencies to review the programs they administer and use these programs in furtherance of the purposes of the Act. All Federal agencies, in consultation with us, are to carry out programs for the conservation of endangered and threatened species listed pursuant to section 4 of the Act.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife. To possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally is also is illegal. Certain exceptions apply to our agents and agents of State conservation agencies.

Our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), is to identify, to the maximum extent practicable, those activities that would or would not constitute a violation of section 9 of the Act for this species. The intent of this policy is to increase public awareness as to the effects of this final listing on future and ongoing activities within this species' range.

We believe, based on the best available information, that the following activities are unlikely to result in a violation of section 9:

(1) Discharges into waters supporting the Alabama sturgeon, provided these activities are carried out in accordance with existing regulations and permit requirements (e.g., activities subject to section 404 of the Clean Water Act and discharges regulated under the NPDES);

(2) Continuation of ongoing maintenance dredging of unconsolidated sediments undertaken or approved by the Corps of Engineers;

(3) Development and construction activities designed and implemented in accordance with State and local water quality regulations and implemented using approved Best Management Practices;

(4) Lawful commercial and sport fishing for species other than Alabama sturgeon, provided any Alabama sturgeon caught are immediately released unharmed; and

(5) Actions that may affect the Alabama sturgeon and are authorized,

funded, or carried out by a Federal agency when the action is conducted in accordance with an incidental take statement issued by us pursuant to section 7 of the Act.

Activities that we believe could potentially result in take of the Alabama sturgeon include:

(1) Illegal collection of the Alabama sturgeon;

(2) Unlawful destruction or alteration of the Alabama sturgeon's habitat (e.g., un-permitted instream dredging, channelization, discharge of fill material); and

(3) Illegal discharge or dumping of toxic chemicals or other pollutants into waters supporting the Alabama sturgeon.

Other activities not identified above will be reviewed on a case-by-case basis to determine if a violation of section 9 of the Act may be likely to result from such activity. We do not consider these lists to be exhaustive and provide them as information to the public.

You should direct questions regarding whether specific activities will constitute a violation of section 9 to the Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 1190, Daphne, AL 36526 (telephone 334/441–5181), or to the Field Supervisor of the Service's Mississippi Field Office (see **ADDRESSES** section).

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22. You may obtain permits for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Send requests for copies of regulations regarding listed species and inquiries about prohibitions and permits to the U.S. Fish and Wildlife Service, Ecological Services Division, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (telephone 404/679–7358; facsimile 404/679–7081).

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.22.

References Cited

You may request a complete list of all references cited in this document, as well as others, from the Mississippi Field Office (see **ADDRESSES** section).

Author: The primary author of this document is Paul Hartfield (see **ADDRESSES** section) (601/321–1125).

Introduction to the White Paper (Biggins 1994)

Below is a document entitled Federal Activities That May Affect the Alabama Sturgeon and Anticipated Section 7 Consultations on These Activities. This document was developed jointly by representatives from the Corps and the Service in 1994 in response to concerns raised during public comment periods on the 1993 proposed rule to list the Alabama sturgeon as an endangered species. The document finalized on November 18, 1994, was referred to in the 1999 proposed rule to list the Alabama sturgeon as an endangered species and in this final rule as ''Biggins 1994,'' and has become widely known as the White Paper.

The White Paper carefully reviews the anticipated impacts of a variety of activities in the lower Alabama River to the Alabama sturgeon. To summarize, the 1994 White Paper found the following: (1) Based on the information available at the time, the Corps' annual maintenance dredging program was not likely to adversely affect the Alabama sturgeon. However, the Corps, in conjunction with the Service, agreed to pursue research to more fully evaluate impacts of maintenance dredging activities, particularly with regard to turbidity issues. (2) While removal of rock shelves may adversely affect the Alabama sturgeon, concerns can be adequately addressed through routine consultation between the Corps and the Service, and this consultation is not likely to result in a jeopardy situation or delays in activities. (3) While channel training devices could reduce impacts to the Alabama sturgeon, additional training devices are not required to avoid jeopardy to the species. (4) The removal of unconsolidated materials from the river bottom through non-Federal maintenance dredging activities is not considered a direct threat to the Alabama sturgeon. (5) Current flow patterns are likely adequate to sustain the Alabama sturgeon where it is currently known to occur. (6) There is no need to modify the State's water quality standards to protect the Alabama sturgeon. (7) Direct or indirect impacts to the Alabama sturgeon from coalbed methane extraction are not anticipated. (8) In-stream gravel mining may adversely affect the Alabama sturgeon and would need to be addressed through consultation. (9) The Alabama sturgeon would need to be considered under other non-Federal activities permitted by the Corps; however, delays in activities are not anticipated.

The findings of the White Paper have been affirmed, reviewed, and reaffirmed through a variety of correspondence between the Corps and us over the last 5 years. Immediately following the finalization of the White Paper, in a letter dated November 23, 1994, the Corps determined that maintenance dredging and disposal activities had no effect on the Alabama sturgeon. We supported that determination in a letter dated November 28, 1994. Between October 1998 and April 1999, we and the Corps again carefully reviewed the details and findings of the White Paper (four letters—Service, October 21, 1998; Corps, December 21, 1998; Corps, February 2, 1999; and Service, April 7, 1999). These letters are all part of the administrative record for this final rule, and summarily clarify and reaffirm the findings of the White Paper.

The findings of the White Paper relative to the annual maintenance of the existing navigation channel of the Alabama River were further supported through an exchange of letters from the Service's Southeast Regional Director, Sam D. Hamilton (June 24, 1999 and February 1, 2000) and the Corps' Division Engineer, Brigadier General J. Richard Capka (November 15, 1999). In these exchanges, Regional Director Hamilton affirmed that the annual navigation channel maintenance dredging programs would have no effect on the Alabama sturgeon and would not need to be eliminated, modified, or altered should the Alabama sturgeon be listed. Brigadier General Capka concurred with this finding and requested that the White Paper be published in its entirety with the final rule. In response to this request, the White Paper follows in its entirety.

Finally, this latest exchange of letters between Regional Director Hamilton and Brigadier General Capka identified the need for a Memorandum of Agreement between the two agencies to ensure open communication and formalize a cooperative process for dealing with new information that may alter the earlier no effect finding. The Service and Corps are currently drafting this agreement.

The White Paper (Biggins 1994)

Federal Activities That May Affect The Alabama Sturgeon and Anticipated Section 7 Consultations on These Activities

Annual maintenance dredging by the Corps: Maintenance dredging by the U.S. Army Corps of Engineers (Corps) to maintain the navigation channel on the Alabama and lower Tombigbee Rivers annually removes 1.5 to 3.8 million cubic meters (2 to 5 million cubic yards) of unconsolidated aggregate (e.g., sand, mud, and silt). Dredge material from the Tombigbee River downstream of Coffeeville, Alabama, is disposed of at upland sites and within the banks of the river. On the Alabama River, fewer upland disposal areas have been established, and the majority of the dredge materials is placed within the shallow reaches of the river.

Based on limited information on the Alabama sturgeon and studies of the shovelnose sturgeon, it appears that these fish require currents over relatively stable substrates for feeding and spawning. They are generally not associated with those unconsolidated substrates that settle in slower current areas and must be removed annually to maintain navigation. Therefore, removal and disposal of unconsolidated materials is not perceived as a threat to the sturgeon or to its feeding or spawning habitat.

In the proposed rule, the U.S. Fish and Wildlife Service (Service) expressed concern that turbidity increases associated with the Corps' annual maintenance dredging could affect the sturgeon, and the Service still has some concern regarding this issue. However, based on the fact that (1) The Alabama and Tombigbee Rivers are currently characterized as turbid rivers; (2) channel maintenance activities produce only localized and temporary elevation of turbidity; (3) the extent to which turbidity impacts the Alabama sturgeon is unknown; and (4) the Corps in cooperation with the Service has agreed to pursue research (within three years and based on the availability of funds) regarding the potential impacts of maintenance dredging activities, including turbidity, on the shovelnose sturgeon, the Service has concurred with the Corps' determination that based on current information their annual maintenance dredging program does not adversely affect the Alabama sturgeon.

Thus, as it is currently believed that the Corps' annual maintenance dredging program on the Alabama and lower Tombigbee Rivers is not likely to affect the Alabama sturgeon, these channel maintenance activities will not need to be eliminated, modified in timing or duration, or altered to protect the Alabama sturgeon. Therefore, no loss of revenue from diminished annual channel maintenance activities will be associated with the listing of the Alabama sturgeon.

Maintenance dredging by the Corps to remove rock shelves: The Alabama and Tombigbee Rivers naturally move laterally, and to some extent, vertically. This natural river channel movement exposes rock shelves at the outer bends of the river. In order to provide for a reliable and safe navigation channel, these rock shelves must sometimes be removed, and similar channel alignment improvements of covered consolidated material are sometimes necessary on the inside bends. Although the removal of these obstructions to navigation are usually infrequent and restricted to isolated areas, this activity may adversely affect the Alabama sturgeon.

The Corps and the Service have discussed the potential impacts to the Alabama sturgeon of removing these rock shelves, and both agencies agree that section 7 consultation will be required prior to the commencement of any rock shelf removal project within or adjacent to potential Alabama sturgeon habitat. However, since both agencies agree that rock shelf removal projects are generally not emergency projects, there will be a sufficient period of time prior to the next dredging season for both agencies to consider the timing and habitat improvements which may be possible by the design and construction of the remaining shelf after excavation and by selective placement of the excavated material. Thus, the Service does not anticipate that these consultations will result in a jeopardy situation or result in delays in these maintenance dredging activities.

Use of training devices by the Corps: In the proposed rule, the Service cited studies by the Corps and others that the use of channel-training devices (e.g., training dikes, jetties, sills, and revetments) in several rivers in the eastern half of the United states reduced dredging requirements by over 50 percent. The Corps' own data stated that structures in the Alabama River were assumed to eliminate about 60 percent of dredging requirements at the specific location where such structures were designed and constructed in the last phase of training works on the Alabama River. The present system on the Alabama River consists of 67 channel training works at 16 locations. The Corps has subsequently stated that based on the Mobile District's criteria for the use of training works, these structures are already used to the maximum extent practicable. However, the Service understands that the Corps will continue to evaluate their use, will modify existing structures as necessary, and may construct additional training devices when justified.

Although the Service believes that training devices could reduce impacts to the Alabama sturgeon and encourages the Corps to consider their use in future planning, the Service does not believe that more training devices are required to avoid jeopardy to the Alabama sturgeon.

Maintenance dredging for non-Federal activities: The Corps authorizes maintenance dredging for non-Federal navigation projects. Although these projects are usually on a much smaller scale that the Corps' annual maintenance dredging activities, they involve the removal of unconsolidated aggregate from navigable waters of the United States and include the discharge of some material back into the waterways. Thus, maintenance dredging by non-Federal entities comes under the Corps' authority pursuant to section 10 of the RHA (33 U.S.C. 403) and section 404 of the CWA (33 U.S.C. 1344).

Maintenance dredging by non-Federal entities for navigation removes unconsolidated aggregate (*e.g.,* sand, mud, and silt) that washes down from upstream portions of the river and from tributaries. Based on limited information on the Alabama sturgeon and studies of the shovelnose sturgeon, it appears that these fish require currents over relatively stable substrates for feeding and spawning. They are generally not associated with the unconsolidated substrates that settle in slower current areas. Therefore, removal of unconsolidated materials is not considered as a direct threat to the sturgeon or to its feeding or spawning habitat.

Prior to the Corps' issuance of a section 404 permit for non-Federal maintenance dredging, the applicant must receive State water quality certification from the State of Alabama pursuant to section 401 of the CWA. As the Service does not believe that more restrictive water quality standards will

be needed to protect the Alabama sturgeon from this activity, the likelihood of an applicant receiving a State water quality certification will not be affected by the listing of the Alabama sturgeon. Additionally, as addressed above under Annual maintenance dredging by the Corps, temporary increases in turbidity associated with maintenance dredging activities are nor currently believed to adversely affect the Alabama sturgeon; and as dredge material from non-Federal maintenance dredging projects is traditionally disposed of at upland sites, potential impacts to the sturgeon are further reduced.

Changes in river flow patterns: A series of dams now control water flows in much of the Mobile River system. Changes in the natural flow patterns have probably had both direct and indirect effects on the Alabama sturgeon and its habitat. In the proposed rule, it was stated that The Service expects that continuous minimum flows of approximately 3,000 [cfs] will be required [to sustain the Alabama sturgeon] below both Robert F. Henry and Millers Ferry Locks and Dams on the lower Alabama River and that

* * *minimum flows below Claiborne Lock and Dam are already maintained at approximately 5,000 cfs to provide for cooling water intake of downstream industry. Although the Service concedes that little information on the flow needs of the sturgeon is available, a minimum figures of 90 cms (3,000 cfs) was arrived at by Service and other biologists familiar with the Alabama River and its fish populations.

The Service now has evidence of the continued existence of the Alabama sturgeon in the free-flowing portion of the Alabama River downstream of Claiborne Lock and Dam and that the Alabama Power Company (APC), through an agreement with the Corps, attempts to maintain (for the purposes of navigation) a minimum average daily flow of approximately 149 cms (4,640 cfs) over any seven consecutive day period and a minimum average daily flow of approximately 81 cms (2,667 cfs) over any three consecutive day period downstream of Claiborne Lock and Dam. Further, the average daily flows over the last decade downstream of Claiborne Lock and Dam have ranged from 114 to 6,912 cms (3,800 to 244,000 cfs). Therefore, the Service believes that the minimum average daily flows, as agreed to by the Corps and the APC, coupled with historic and Federal Energy Regulatory Commission ordered flow patterns, are likely adequate to sustain the Alabama sturgeon in this river reach.

The Service's opinion on flow requirements for river segments upstream of Claiborne Lock and Dam, as stated in the proposed rule, has changed somewhat. The Service's position remains that the best biological judgement at this time is that a minimum average daily flow of approximately 90 cms (3,000 cfs) from the Robert F. Henry and Millers Ferry Locks and Dams would be required to maintain a population of the Alabama sturgeon upstream of Claiborne Lock and Dam. However, the continued existence of the sturgeon upstream of Claiborne Lock and Dam has not been substantiated in nearly a decade, although anecdotal evidence exists.

Therefore, based on our current knowledge of the Alabama sturgeon and its distribution, no changes in water releases from these structures or from structures located in the headwaters of the Alabama River system (*e.g.,* Coosa and Tallapoosa Rivers) are being suggested for the benefit of the sturgeon nor are they anticipated by the Service as a result of this listing. Thus, without changes in flow releases from power-generating dams, there should be no loss of electrical power revenue resulting from listing the Alabama sturgeon.

State water quality standards: Although it is possible that some point-source discharges negatively impact the Alabama sturgeon, there is no evidence to support the conclusion that the State's water quality standards must be changed if the fish is listed. As discussed in the proposed rule, the potential exists for point discharges to impact the Alabama sturgeon, and it is noted that there is an increasing demand for discharge permits in the Mobile River system. However, there are two factors that work to minimize any impacts to this fish from point-source discharges: (1) As the Alabama sturgeon inhabits larger channel areas, the effects of any point discharge into its habitat would likely be minimized by dilution and (2) the State of Alabama, with assistance from and oversight by the EPA, sets water quality standards that are presumably protective of aquatic life.

It is the Service's position, as stated in the proposed rule, that as long as current fish and wildlife standards under the CWA are used to issue discharge permits and the conditions of the permits are enforced, there is no need to modify the State's water quality standards to protect the Alabama sturgeon. A violation of State water quality standards would be a violation of the CWA, and listing the Alabama sturgeon could potentially increase noncompliance penalties. However, the listing, based on current information, would not increase the need for changes in State water quality standards.

Coalbed methane: The extraction of coalbed methane can necessitate the release of produced water into the environment, and this discharge was mentioned as a potential threat to the Alabama sturgeon in the proposed rule. The Corps authorizes produced-water discharge structures pursuant to section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) if the outfall structure is placed into navigable waters of the United States. The Corps typically authorizes these structures with a Letter of Permission. Letters of Permission are a type of permit issued through an abbreviated processing procedure that includes coordination with Federal (including the Service) and State fish and wildlife agencies, as required by the Fish and Wildlife Coordination Act, and a public interest evaluation, but without publishing an individual public notice. Letters of Permission may be used in those cases subject to section 10 when, in the opinion of the District Engineer, the proposed work would be minor, would not have significant individual or cumulative impacts on environmental values, and should encounter no appreciable opposition. Additionally, prior to discharge, the applicant must receive a permit from the State of Alabama under NPDES guidelines. As the Alabama sturgeon exists far downstream of these permit activities, the Service does not believe that any modification to existing discharge structure authorization procedures is needed to protect the Alabama sturgeon.

The potential coalbed methane wells are far upstream of known Alabama sturgeon habitat and any discharge must meet State water quality standards (the Service has stated that the water quality standards will not have to be modified in order to protect the Alabama sturgeon). Therefore, the Service does not anticipate any direct or indirect impacts to the Alabama sturgeon from properly permitted produced-water discharges.

Gravel mining: In-stream gravel mining involves work in navigable waters of the United States and includes the discharge of the noncommercial dredge material back into the waterway. Thus, in-stream gravel mining comes under the Corps' authority, pursuant to section 10 of the RHA (33 U.S.C. 403) and section 404 of the CWA (33 U.S.C. 1344). The Service believes that the Alabama sturgeon likely uses relatively stable substrate for breeding and feeding habitat. Thus, mining of this stable substrate could threaten the species. However, the Service believes the

mining of unconsolidated material or relatively stable material that is covered by several inches of fine sediment would not be likely to jeopardize the species' continued existence.

Prior to the issuance of a permit by the Corps for in-stream gravel mining, the applicant must receive State water quality certification from the State of Alabama pursuant to section 401 of the CWA. As the Service does not believe that more restrictive water quality standards will be needed to protect the Alabama sturgeon from this activity, the likelihood of an applicant's receiving State water quality certification will not be affected by the listing of the Alabama sturgeon. However, as in-stream gravel mining generally produces higher turbidity levels than are produced by maintenance dredging, the Service believes that increases in turbidity within Alabama sturgeon habitat from in-stream gravel mining activities could be considered a ''may adversely affect situation that the Corps would need to address through section 7 consultation with the Service. However, the Service does not anticipate that turbidity produced from gravel-mining of unconsolidated substrates would likely jeopardize the continued existence of the Alabama sturgeon.

Other regulatory activities of the Corps: The Corps authorizes other non-Federal activities (*e.g.,* pipelines, piers, wharfs, and small boat channels) within waters of the United States within the historic range of the Alabama sturgeon. These non-Federal activities are regulated through the Corps' regulatory program and evaluated on a case by case basis. Although these activities are on a much smaller scale than most other activities authorized by the Corps, these actions are more numerous and therefore could present a greater number of opportunities for the Service to consider impacts to the sturgeon. Thus, concern has been expressed that if the Alabama sturgeon is listed permit applicants will be burdened by time delays and by requirements to conduct sturgeon surveys. The Service recognizes that some of the non-Federal activities authorized by the Corps (*e.g.,* bridge pier placement and pipeline crossings) in the Alabama River system could be delayed by a requirement to conduct endangered species surveys (Alabama sturgeon plus other listed species). However, it has been the experience of the Service that most of these non-Federal activities do not require a survey and further are not delayed because of endangered species issues.

Prepared: November 18, 1994.

This document [White Paper] was prepared jointly by the Fish and Wildlife Service and the U.S. Army Corps of Engineers in accordance with the September 1994 Memorandum of Understanding on Implementation of the Endangered Species Act.

By: Richard Biggins, U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806 (telephone: 704/665–1195 ext. 228, facsimile: 704/665–2782)

Note: Material contained in this document will be included in any final Alabama sturgeon rule that might be produced by the Service.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows.

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following to the List of Endangered and Threatened Wildlife, in alphabetical order under FISHES:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes:							
*	*	*	*	*	*	*	
Sturgeon, Alabama.	*Scaphirhynchus suttkusi.*	U.S.A. (AL, MS)	Entire	E	697	NA	NA
*	*	*	*	*	*	*	

Dated: April 30, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–11131 Filed 5–2–00; 8:45 am]

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Federal Register

Friday,
May 5, 2000

Part IV

Department of Education

34 CFR Parts 100, 104, 106, and 110

Conforming Amendments to the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Disability, Sex, and Age Under the Civil Rights Restoration Act of 1987; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 100, 104, 106, and 110

RIN 1870–AA10

Conforming Amendments to the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Disability, Sex, and Age Under the Civil Rights Restoration Act of 1987

AGENCY: Office for Civil Rights, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing nondiscrimination on the basis of race, color, national origin, sex, handicap, and age to conform with statutory amendments made by the Civil Rights Restoration Act of 1987 (CRRA). These amendments would add a definition of ''program or activity'' or ''program'' that adopts the statutory definition of ''program or activity'' or ''program'' enacted as part of the CRRA.

DATES: We must receive your comments on or before July 5, 2000.

ADDRESSES: Address all comments about these proposed regulations to Jeanette J. Lim, U.S. Department of Education, 400 Maryland Avenue, SW., room 5036 MES, Washington, DC 20202–1100. If you prefer to send your comments through the Internet, use the following address: comments@ed.gov

You must include the term ''CRRA'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Jeanette J. Lim. Telephone: (202) 205–5557. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 260–0471 or the Federal Information Relay Service at 1–800–877–8339.

For additional copies of this NPRM, individuals may call OCR's Customer Service Team at 202–205–5557 or toll-free at 1–800–421–3481.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to OCR's Customer Service Team listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed regulations in room 5036, 330 C Street, SW., Washington, DC, between the hours of 9:30 a.m. and 5 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

Overview

The Department of Education (Department or ED) proposes to amend these civil rights regulations to conform to provisions of the Civil Rights Restoration Act (CRRA), regarding the scope of coverage under civil rights statutes administered by the Department. These statutes include Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, *et seq.* (Title VI), Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, *et seq.*, (Title IX), Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 (Section 504), and the Age Discrimination Act of 1975, 42 U.S.C. 6101, *et seq.* (Age Discrimination Act). Title VI prohibits discrimination on the basis of race, color, and national origin in all programs or activities that receive Federal financial assistance; Title IX prohibits discrimination on the basis of sex in education programs or activities that receive Federal financial assistance; Section 504 prohibits discrimination on the basis of disability in all programs or activities that receive Federal financial assistance; and the Age Discrimination Act prohibits discrimination on the basis of age in all programs or activities that receive Federal financial assistance.

The proposed conforming change is to amend each of these regulations to add a definition of ''program or activity'' or ''program'' that adopts the statutory definition of ''program or activity'' or ''program'' enacted as part of the CRRA. We believe that adding this statutory definition to the regulatory language is the best way to avoid confusion on the part of recipients, students, parents, and other interested parties about the scope of civil rights coverage. This proposal also conforms to a notice of proposed rulemaking (NPRM) to establish Title IX common regulations for 24 Federal agencies published on October 29, 1999. (64 FR 58568) That proposed common rule incorporated the statutory definitions of ''program or activity'' or ''program'' enacted as part of the CRRA.

The Department's civil rights regulations, when originally issued and implemented, were interpreted by the Department to mean that acceptance of Federal assistance by a school resulted in broad institutional coverage. In *Grove City College* v. *Bell*, 465 U.S. 555, 571–72 (1984) (*Grove City College*), the Supreme Court held, in a Title IX case, that if the Department provides student financial assistance to a college, the Department has jurisdiction to ensure Title IX compliance in the specific program receiving the assistance, in this case, the student financial aid office, but that the Federal student financial assistance would not provide jurisdiction over the entire institution. Following the Supreme Court's decision in *Grove City College*, the Department did change its interpretation, but not the language, of these regulations to be consistent with the Court's restrictive, ''program specific'' definition of ''program or activity'' or ''program.'' Since Title IX was patterned after Title VI, *Grove City College* significantly narrowed the scope of jurisdiction of Title VI and two other statutes based on it: The Age Discrimination Act and Section 504. See S. Rep. No. 100–64, 100th Cong., 1st Sess. 2–3, 11–16 (1987).

Then, in 1988, the CRRA was enacted to ''restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.'' 20 U.S.C. 1687 note 1. Congress enacted the CRRA in order to remedy what it perceived to be a serious narrowing by the Supreme Court of a longstanding administrative interpretation of the coverage of the regulations. At that time, the Department reinstated its broad interpretation to be consistent with the

CRRA, again without changing the language of the regulations. It was and remains the Department's consistent interpretation that—with regard to the differences between the interpretation of the regulations given by the Supreme Court in *Grove City College* and the language of the CRRA—the CRRA, which took effect upon enactment, superseded the *Grove City College* decision and, therefore, the regulations must be read in conformity with the CRRA.

This interpretation reflects the understanding of Congress, as expressed in the legislative history of the CRRA, that the statutory definition of ''program or activity'' or ''program'' would take effect immediately, by its own force, without the need for Federal agencies to amend their existing regulations. S. Rep. No. 100–64 at 32. The legislative history also evidences congressional concern about the Department's immediate need to address complaints and findings of discrimination in federally assisted schools under the CRRA definition of ''program or activity,'' citing examples to demonstrate why the CRRA was ''urgently'' needed. S. Rep. No. 100–64 at 11–16.

The proposed regulatory change discussed previously would eliminate an issue recently raised by the Third Circuit Court of Appeals in *Cureton* v. *NCAA,* 198 F. 3d 107 (1999) (*Cureton*). That court determined that, because the Department did not amend its Title VI regulations after the CRRA amended Title VI, application of the Department's Title VI regulations to disparate impact discrimination claims is ''program specific'' (*i.e.,* limited to specific programs in an institution affected by the Federal funds), rather than institution-wide (*i.e.,* applicable to all of the operations of the institution regardless of the use of the Federal funds). The Department disagrees with the *Cureton* decision for the reasons described in this preamble. That decision would thwart clearly expressed congressional intent. In any event, the proposed regulatory changes would address the concerns raised by the Third Circuit in that the regulations would track the statutory language and apply to both disparate impact discrimination and different treatment discrimination. (''Different treatment,'' *i.e.,* intentional discrimination, refers to policies or practices that treat individuals differently based on their race, color, national origin, sex, disability, or age, as applicable. That different treatment is generally barred by the civil rights statutes and regulations. ''Disparate impact'' refers to criteria or methods of administration that have a significant disparate effect on individuals based on race, color, national origin, sex, disability, or age, as applicable. Those criteria or practices may constitute impermissible discrimination based on legal standards that include consideration of their educational necessity.)

The statutory definition, which is being incorporated into the regulations, addresses four broad categories of recipients: (1) State or local governmental entities. (2) Colleges, universities, other postsecondary educational institutions, public systems of higher education, local educational agencies (LEAs), systems of vocational education, and other school systems. (3) Private entities, such as corporations, partnerships, and sole proprietorships, including those whose principal business is providing education. (4) Entities that are established by a combination of two or more of the first three types of entities.

Under the first part of the definition, if State and local governmental entities receive financial assistance from the Department, the ''program or activity'' or ''program'' in which discrimination is prohibited includes all of the operations of any State or local department or agency to which the Federal assistance is extended. For example, if the Department provides financial assistance to a State educational agency, all of the agency's operations are subject to the nondiscrimination requirements of the regulations. In addition, ''program or activity'' or ''program'' also includes all of the operations of the entity of a State or local government that distributes the Federal assistance to another State or local governmental agency or department and all of the operations of the State or local governmental entity to which the financial assistance is extended. For example, if the Department provides financial assistance under Title I of the Elementary and Secondary Education Act to a State educational agency and the State educational agency distributes the financial assistance to a local educational agency, then all of the operations of the State educational agency are subject to the nondiscrimination requirements of the regulations, and all of the operations of the local educational agency are covered.

Under the second part of the definition of ''program or activity'' or ''program,'' if colleges, universities, other postsecondary institutions, public systems of higher education, local educational agencies, systems of vocational education, or other public or private schools or school systems receive financial assistance from the Department, all of their operations are subject to the nondiscrimination requirements of the regulations. For example, if a public school district receives funds from the Department under the Safe and Drug Free Schools and Communities Act, the entire school district is covered, not just the district's Safe and Drug Free Schools and Communities component. Additionally, for example, if a college or university receives student financial assistance from the Department, all of the operations of the college or university are covered, not solely the operations of the student financial assistance office. In addition, the legislative history of the CRRA made it clear that ''all of the operations'' was not limited to traditional educational operations, but was intended to include other benefits and services of the educational institution, such as faculty and student housing, campus shuttle bus services, and commercial activities, such as cafeterias and bookstores.

Under the third part of the definition, in the case of private entities not already listed under the second part of the definition, if the federally assisted entity or organization is principally engaged in the business of education (or health care, housing, social services, or parks and recreation), then the entire corporation, partnership, or other private organization or sole proprietorship is the covered ''program or activity'' or ''program.'' For example, if an individual elementary or secondary school that is neither part of an LEA nor part of an assisted private ''school system'' receives financial assistance from the Department, the school will be covered on an institution-wide basis under this portion of the definition of ''program or activity'' or ''program'' because it is an entity principally engaged in the business of providing education. For example, if a proprietary trade school receives student financial assistance from the Department, all of its operations are covered by the nondiscrimination requirements of the regulations.

Also under the third part of the definition, if a private entity is not principally engaged in the business of education or health care, housing, social services, or parks and recreation and the Department extends financial assistance to the private entity ''as a whole,'' all of the private entity's operations at all of its locations would be covered. If the Department were to extend general assistance, that is, assistance that is not designated for a particular purpose, to this type of corporation or other private entity, that would be considered financial assistance to the private entity

''as a whole.'' In other instances in which a geographically separate facility receives assistance under the third part of this definition, the coverage would be limited to the geographically separate facility that receives the assistance.

Under the fourth part of the definition, if an entity of a type not already covered by one of the first three parts of the definition is established by two or more of the entities listed under the first three parts of the definition, then all of the operations of that new entity are covered. Under the illustrative example in the legislative history, a public school district (an entity listed under the second part of the definition) and a private corporation (an entity listed under the third part of the definition) may establish a new company, which is a public-private partnership designed to provide remediation, training, and employment to high school students who are at risk of dropping out of school. If the new company applied for and received financial assistance from the Department, then, as an entity listed under the fourth part of the definition, all of its operations would be covered, even if the assistance from the Department went only to one division or component of the new company.

The proposed regulations also would modify or delete some existing sections of the Department regulations that have become superfluous following the CRRA enactment, to conform with the CRRA definitions of ''program or activity'' or ''program.'' These proposed regulations would not change the requirements of the existing regulations. This is consistent with the approach in the Title IX common rule NPRM in which it was noted that regulatory language in ED's Title IX regulations made superfluous by the enactment of the CRRA was omitted in that proposed rule (64 FR 58571).

The Department's Title IX regulations, promulgated in 1975, defined ''recipient'' as an entity ''to whom Federal financial assistance is extended directly or through another recipient and that operates an education program or activity that receives or benefits from such assistance.'' At that time, the words ''or benefits from'' were necessary to clarify that *all* of the operations of a university or other educational institution that receives Federal funds— not just the particular programs receiving financial assistance—are covered by Title IX's nondiscrimination requirements. As previously discussed, this interpretation was rejected by the Supreme Court in 1984 in *Grove City College,* which held that Federal student financial aid established Title IX jurisdiction only over the financial aid program, not the entire institution. However, Congress' 1988 enactment of the CRRA counteracted this decision by defining ''program or activity'' and ''program'' to provide expressly that Title IX covers all educational programs of a recipient institution. Because of this statutory change, the words ''or benefits from'' are no longer necessary as a regulatory matter. For the same reason, we propose to delete the words ''or benefits from'' from the Section 504 regulations. These deletions do not affect the reach of Title IX or Section 504.

The Department of Education's existing Title VI regulations, promulgated in 1964 by the Department of Health, Education, and Welfare in 29 FR 16298 and 29 FR 16988 and in 1965 in 30 FR 16988, include an assurance requirement for institutions in § 100.4(d)(2) that has created confusion with regard to the scope of ''program or activity'' and ''program'' under Title VI. One example is the previously referenced decision in *Cureton.* The current provision states, in part, ''The assurance * * * shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Department official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought * * *.'' (34 CFR 100.4(d)(2)) This NPRM proposes to delete that portion of the assurance to avoid any further confusion. As previously stated, it was appropriate to apply the CRRA statutory definition of ''program or activity'' to the regulations. For the same reasons, portions of the illustrations in § 100.5 (b) and (d) would be deleted, since they could create similar confusion. Specifically, current § 100.5(b) states that, with regard to university graduate research, training, demonstration, or other grants, ''the prohibition extends to the entire university unless it satisfies the responsible Department official that practices with respect to other parts or programs of the university will not interfere, directly or indirectly, with fulfillment of the assurance required with respect to the graduate school.'' Similarly, current § 100.5(d) states that ''In construction grants the assurances required will be adapted to the nature of the activities to be conducted in the facilities for construction of which the grants have been authorized by Congress.'' These proposed deletions would not affect the reach of Title VI.

In addition, we are proposing conforming changes that delete references to ''program'' or ''program or activity'' in the existing regulations that do not refer to the CRRA broad definition of that phrase and to continue the longstanding Department interpretation of the statutes and regulations. For example, in some instances, we have proposed to delete ''program'' or ''program or activity'' and substitute ''Federal financial assistance'' or ''aids, benefits, or services.'' In others, we have proposed to change ''programs *and* activities'' to ''programs or activities'' to conform the regulations to the phrase used in the CRRA—when it is used in the broad manner defined in the CRRA. We have not proposed to modify the term ''activity'' when it appears separately from the phrase ''program or activity'' and is used in a manner unrelated to the CRRA phrase ''program or activity.''

It is important to note that the proposed changes would not in any way alter the requirement of the CRRA that a proposed or effectuated fund termination be limited to the particular program or programs ''or part thereof'' that discriminates or, as appropriate, to all of the programs that are infected by the discriminatory practices. *See* S. Rep. No. 100–64, at 20 (''The [CRRA] defines 'program' in the same manner as 'program or activity,' and leaves intact the 'or part thereof' pinpointing language.'').

We propose to replace the current definition of ''program'' in 34 CFR 100.13 with the proposed definition of ''program or activity'' and ''program.'' We propose to add the definition of ''program or activity'' and ''program'' to 34 CFR 106.2. We propose to add the definition of ''program or activity'' to 34 CFR 104.3 and to 34 CFR 110.3. Because, as previously explained, the proposed changes merely incorporate statutory language and do not alter the Department's consistent position that the regulations must be read in conformity with the CRRA, the Department views these changes as technical in nature. However, the Department is inviting public comment on the proposed changes, consistent with its policy of involving interested members of the public in its rulemaking process. Conforming changes to the nonregulatory guidance in Appendix B of Part 100, Appendix A of Part 104, and Appendix A of Part 106 will be published in the **Federal Register** in a separate notice. Nothing in these proposed changes affects coverage under the Federal employment nondiscrimination statutes, including Title VII of the Civil Rights Act of 1964,

Title I of the Americans with Disabilities Act, and the Age Discrimination in Employment Act.

Executive Order 12866

1. Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those we have determined as necessary for administering these programs effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action, we have determined that there probably will be no cost impacts because this regulatory action merely clarifies longstanding Department policy and does not change the Department's practices in addressing issues of discrimination.

We have also determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

Recently, the Third Circuit Court of Appeals interpreted existing regulations inconsistently with the language of the CRRA and our existing practices. The Department disagrees with that decision. However, these proposed regulations would clarify the Department's policy and practice in light of that decision—and would do that only a short time after the court decision, thereby ensuring continuity in that policy and practice and avoiding changes in the behavior of recipients within the Third Circuit that could occur if Federal civil rights jurisdiction were changed. Therefore, it is possible that there will be no costs associated with the proposed regulations.

2. Clarity of the Regulations

Executive Order 12866 and the President's Memorandum of June 1, 1998 on ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§'' and a numbered heading; for example, § 100.2 *Application of this regulation.*)
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. These regulations implement statutory amendments and longstanding Department policy.

Paperwork Reduction Act of 1995

These proposed regulations do not contain any information collection requirements.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

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List of Subjects

34 CFR Part 100

Administrative practice and procedure, Civil rights.

34 CFR Part 104

Civil Rights, Equal educational opportunity, Equal employment opportunity, Individuals with disabilities.

34 CFR Part 106

Education, Sex discrimination.

34 CFR Part 110

Administrative practice and procedure, Aged, Civil rights, Grant programs—education, Loan programs—education.

Dated: March 29, 2000.

Richard W. Riley,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary proposes to amend parts 100, 104, 106, and 110 of title 34 of the Code of Federal Regulations as follows:

PART 100—NONDISCRIMINATION UNDER PROGRAMS RECEIVING FEDERAL ASSISTANCE THROUGH THE DEPARTMENT OF EDUCATION EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

1. The authority citation for part 100 continues to read as follows:

Authority: Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d–1, unless otherwise noted.

§ 100.2 [Amended]

2. Section 100.2 is amended by removing the words ''program for which'' and adding, in their place, ''program to which'' and removing the words ''assisted programs and activities'' and adding, in their place, ''financial assistance''.

§ 100.3 [Amended]

3. Section 100.3(d) is amended by removing the words ''the benefits of a program'', and adding, in their place, the word ''benefits''.

§ 100.4 [Amended]

4. Section 100.4 is amended as follows—

A. Removing the words ''to carry out a program'' in the first sentence of paragraph (a)(1);

B. Removing the words ''except a program'' and adding, in their place, the words ''except an application'' in the first sentence of paragraph (a)(1);

C. Removing the words ''for each program'' and the words ''in the program'' in the fifth sentence of paragraph (a)(1);

D. Removing the words ''*State programs*'' and adding, in their place, the words ''*Federal financial assistance*'' in the heading of paragraph (b);

E. Removing the words ''to carry out a program involving'' and adding, in their place, the word ''for'' in paragraph (b); and

F. Revising paragraph (d)(2).

The revision reads as follows:

§ 100.4 Assurances required.

* * * * *

(d) * * *

(2) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution.

* * * * *

5. Section 100.5 is amended as follows—

A. Revising paragraph (b); and

B. Removing the last sentence of paragraph (d).

The revision reads as follows:

§ 100.5 Illustrative application.

* * * * *

(b) In a research, training, demonstration, or other grant to a university for activities to be conducted in a graduate school, discrimination in the admission and treatment of students in the graduate school is prohibited, and the prohibition extends to the entire university.

* * * * *

§ 100.6 [Amended]

6. Section 100.6(b) is amended by removing the words ''of any program under'' in the last sentence and adding, in their place, the word ''in''.

§ 100.9 [Amended]

7. Section 100.9(e) is amended by removing the word ''programs'' in the first sentence and adding, in its place, the words ''Federal assistance statutes''.

8. Section 100.13 is amended by removing ''for any program,'' and ''under any such program'' in paragraph (i); removing ''for the purpose of carrying out a program'' in paragraph (j); and revising paragraph (g) and adding an authority citation following paragraph (g) to read as follows:

§ 100.13 Definitions.

* * * * *

(g) The term *program or activity* and the term *program* mean all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity that is established by two or more of the entities described in paragraph (g)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

(Authority: 42 U.S.C. 2000d–4)

* * * * *

9. Appendix A to part 100 is amended by revising the heading of part 1 and the heading of part 2 to read as follows:

Appendix A to Part 100—Federal Financial Assistance to Which These Regulations Apply

Part 1—Assistance Other Than Continuing Assistance to States

* * * * *

Part 2—Continuing Assistance to States

* * * * *

PART 104—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

10. The heading for part 104 is revised to read as set forth above.

11. The authority citation for part 104 continues to read as follows:

Authority: 20 U.S.C. 1405; 29 U.S.C. 794.

§ 104.2 [Amended]

12. Section 104.2 is amended by removing the word ''each'' wherever it appears and adding, in its place, the word ''the''; and by removing the words ''or benefits from''.

13. Section 104.3 is amended by redesignating paragraphs (k) and (l) as paragraphs (l) and (m), respectively; adding a new paragraph (k); and adding an authority citation following paragraph (k) to read as follows:

§ 104.3 Definitions.

* * * * *

(k) *Program or activity* means all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (k)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

(Authority: 29 U.S.C. 794(b))

* * * * *

14. Section 104.4 is amended by—

A. Removing the words ''or benefits from'' in paragraphs (a) and (b)(5);

B. Removing the words ''programs or activities'' wherever they appear in paragraph (b)(3), and adding, in their place, ''aids, benefits, or services'';

C. Removing the words ''or benefiting from'' in paragraph (b)(6); and

D. In paragraph (c), removing the word ''*Programs*'' in the heading and adding, in its place, the words ''*Aids, benefits, or services*''; removing the words ''from the benefits of a program'' and adding, in their place, the words ''from aids, benefits, or services'', and removing the words ''from a program'' and adding, in their place, the words ''from aids, benefits, or services''.

§§ 104.4, 104.6, 104.12, 104.33 [Amended]

15. Remove the word ''program'' and add, in its place, the words ''program or activity'' in the following sections:

A. Section 104.4(b)(4);

B. Section 104.6(a)(3), wherever it appears;

C. Section 104.12(a), (c) introductory text, and (c)(1); and

D. Section 104.33(a).

§ 104.5 [Amended]

16. Section 104.5(a) is amended in the first sentence by removing the words ''for a program or activity'' and by removing the words ''the program'' and adding, in their place, the words ''the program or activity''.

§ 104.8 [Amended]

17. Section 104.8(a) is amended by removing the words ''programs and activities'' in the second sentence and adding, in their place, the words ''programs or activities''.

§ 104.11 [Amended]

18. Section 104.11 is amended by—

A. Removing the words ''programs assisted'' and adding, in their place, the words ''programs or activities assisted'' in paragraph (a)(2);

B. Removing the word ''programs'' and revising ''apprenticeship'' to read ''apprenticeships'' in the last sentence of paragraph (a)(4).

C. Removing the word ''programs'' and adding the words ''those that are'' before ''social or recreational'' in paragraph (b)(8).

Subpart C to Part 104—[Amended]

19. The heading of Subpart C is amended by removing the word ''Program''.

§ 104.22 [Amended]

20. Section 104.22 is amended in paragraph (a) by removing the words ''*Program accessibility*'' in the heading and adding, in their place, the word ''*Accessibility*'' and by removing the words ''each program or activity to which this part applies so that the program or activity, when viewed in its entirety,'' in the first sentence and adding, in their place, the words ''its program or activity so that when each part is viewed in its entirety, it''; by removing the words ''offer programs and activities to'' in the last sentence and adding, in their place, the word ''serve'' in paragraph (b); and by removing the word ''program'' in paragraph (e)(3).

§ 104.31 [Amended]

21. Section 104.31 is amended by removing the words ''or benefit from'' wherever they appear; and by removing the words ''programs and activities'' and adding, in their place, the words ''programs or activities''.

§ 104.33 [Amended]

22. Section 104.33 is amended by—

A. Removing the words ''individualized education program'' and adding, in their place, the words ''Individualized Education Program'' in paragraph (b)(2);

B. Removing the words ''in or refer such person to a program other than the one that it operates'' and adding, in their place, the words ''or refer such a person for aids, benefits, or services other than those that it operates or provides'' in the first sentence in paragraph (b)(3);

C. Removing the words ''in or refers such person to a program not operated'' in the second sentence of paragraph (c)(1), and adding, in their place, the words ''or refers such person for aids, benefits, or services not operated or provided'';

D. Removing the words ''of the program'' in the second sentence of paragraph (c)(1) and adding, in their place, the words ''of the aids, benefits, or services'';

E. Removing the words ''in or refers such person to a program not operated'' in paragraph (c)(2), and adding, in their place, the words ''or refers such person for aids, benefits, or services not operated or provided'';

F. Removing the words ''from the program'' in paragraph (c)(2), and adding, in their place, the words ''from the aids, benefits, or services'';

G. Removing the words ''in the program'' in paragraph (c)(2), and adding, in their place, the words ''in the aids, benefits, or services'';

H. Removing the words ''If placement in a public or private residential program'' and adding, in their place, the words ''If a public or private residential placement'' in paragraph (c)(3); and removing the words ''the program'', and adding, in their place, the words ''the placement''; and

I. Removing the words ''such a program'' in the last sentence of paragraph (c)(4), and adding, in their place, the words ''a free appropriate public education''.

§ 104.35 [Amended]

23. Section 104.35(a) is amended by removing the words ''program shall'' and adding, in their place, the words ''program or activity shall'' and by removing the word ''a'' before the word ''regular'' and by removing the word ''program'' before the word ''and''.

§ 104.37 [Amended]

24. Section 104.37(c)(1) is amended by removing the words ''programs and activities'' in the first sentence and adding, in their place, the words ''aids, benefits, or services''; and by removing the words ''in these activities'' in the last sentence.

§ 104.38 [Amended]

25. Section 104.38 is amended by—

A. Removing the word ''programs'' in the section heading;

B. Removing the words ''operates a'' and adding, in their place, the word ''provides'';

C. Removing the words ''program or activity or an'' after the word ''care'' and adding, in their place, the word ''or'';

D. Removing the words ''program or activity'' after the word ''education'';

E. Removing the words ''from the program or activity'';

F. Revising the word ''aid'' to read ''aids''; and

G. Removing the words ''under the program or activity''.

§ 104.39 [Amended]

26. Section 104.39 is amended by—

A. Removing the word ''programs'' in the section heading;

B. Removing the words ''operates a'' and adding, in their place, the word ''provides'' in paragraph (a);

C. Removing the word ''program'' after the word ''education'' in paragraph (a);

D. Removing the words ''from such program'' in paragraph (a);

E. Removing the words ''the recipient's program'' in paragraph (a), and adding, in their place, the words ''that recipient's program or activity''; and

F. Removing the words ''operates special education programs shall operate such programs'' in paragraph (c), and adding, in their place, the words ''provides special education shall do so''.

§ 104.41 [Amended]

27. Section 104.41 is amended by removing the words ''programs and activities'' wherever they appear in the section and adding, in their place, the words ''programs or activities''; and by removing the words ''or benefit from'' wherever they appear in the section.

§ 104.43 [Amended]

28. Sections 104.43 is amended by—

A. Removing the words ''program or activity'' in paragraph (a) and adding, in their place, the words ''aids, benefits, or services''; and

B. Removing the words ''programs and activities'' in paragraph (d), and adding, in their place, the words ''program or activity''.

§ 104.44 [Amended]

29. Section 104.44 is amended by—

A. Removing the words ''program of'' in the second sentence of paragraph (a);

B. Removing the words ''in its program'' in paragraph (c); and

C. Removing the words ''under the education program or activity operated by the recipient'' in paragraph (d)(1).

§ 104.47 [Amended]

30. Section 104.47 is amended by removing the words ''programs and activities'' in paragraph (a)(1), and adding, in their place, the words ''aids, benefits, or services''.

§ 104.51 [Amended]

31. Section 104.51 is amended by removing the words ''or benefit from'' wherever they appear in the section; and by removing the word ''and'' before the word ''activities'' and adding, in its place, the word ''or''.

PART 106—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

32. The heading for part 106 is revised to read as set forth above.

33. Section 106.2 is amended by—

A. Redesignating paragraphs (h) through (r) as paragraphs (i) through (s), respectively;

B. Adding a new paragraph (h) and adding an authority citation following paragraph (h); and

C. Amending redesignated paragraph (i) to remove the words ''or benefits from''.

The addition reads as follows:

§ 106.2 Definitions.

* * * * *

(h) *Program or activity* and *program* means all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or local government; or

(ii) The entity of a State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity that is established by two or more of the entities described in paragraph (h)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

(Authority: 20 U.S.C. 1687)

* * * * *

§ 106.4 [Amended]

34. Section 106.4 is amended by removing the word ''each'' and adding, in its place, the word ''the'' in the first sentence of paragraph (a).

§ 106.6 [Amended]

35. Section 106.6 is amended by removing the words ''or benefits from'' in paragraph (c).

§ 106.11 [Amended]

36. Section 106.11 is amended by removing the word ''each'' and adding, in its place, the word ''the''; and by removing the words ''or benefits from''.

Subparts D and E of Part 106—[Amended]

37. The headings of Subparts D and E are amended by removing the word ''and'' and adding, in its place, the word ''or''.

§ 106.31 [Amended]

38. Section 106.31 is amended by—

A. Removing the word ''and'' in the section heading and adding, in its place, the word ''or'';

B. Removing the words ''or benefits from'' in the first sentence of paragraph (a); and

C. Removing the words ''*Programs not operated*'' in the heading of paragraph (d), and adding, in their place, the words ''*Aid, benefits or services not provided*''.

§ 106.40 [Amended]

39. Section 106.40 is amended by removing the words ''in the normal education program or activity'' in paragraph (b)(2); and by removing the words ''instructional program in the separate program'' in paragraph (b)(3) and adding, in their place, the words ''separate portion''.

§ 106.51 [Amended]

40. Section 106.51 is amended by removing the words ''or benefits from'' in paragraph (a)(1).

PART 110—NONDISCRIMINATION ON THE BASIS OF AGE IN DEPARTMENT OF EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

41. The authority citation for part 110 continues to read as follows:

Authority: 42 U.S.C. 6101 *et seq.*, unless otherwise noted.

§§ 110.1, 110.20 [Amended]

42. Remove the words ''programs and activities'' in the last sentence of § 110.1 and the first sentence of § 110.20 and add, in their place, the words ''programs or activities''.

43. Section 110.3 is amended by adding in alphabetical order a new definition of ''Program or activity'' and adding an authority citation following the definition to read as follows:

§ 110.3 What definitions apply?

* * * * *

Program or activity means all of the operations of—

(a)(1) A department, agency, special purpose district, or other instrumentality of a State or local government; or

(2) The entity of a State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(b)(1) A college, university, or other postsecondary institution, or a public system of higher education; or

(2) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(c)(1) An entire corporation, partnership, other private organization, or an entire sole proprietorship—

(i) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(2) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(d) Any other entity that is established by two or more of the entities described in paragraph (a), (b), or (c) of this section; any part of which is extended Federal financial assistance.

(Authority: 42 U.S.C. 6107)

* * * * *

§§ 110.16, 110.17 [Amended]

44. Remove the word ''program'' wherever it appears in § 110.16 and in § 110.17, and add, in its place, the words ''program or activity''.

§ 110.35 [Amended]

45. Section 110.35(c)(2) is amended by removing the word ''Federal'' in the first sentence.

§ 110.37 [Amended]

46. Section 110.37(b)(2) is amended by removing the words ''program or activity'' and adding, in their place, ''Federal financial assistance''.

[FR Doc. 00–10567 Filed 5–4–00; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Friday,
May 5, 2000

Part V

The President

Executive Order 13153—Actions To Improve Low-Performing Schools

Executive Order 13154—Establishing the Kosovo Campaign Medal

Federal Register
Vol. 65, No. 88
Friday, May 5, 2000

Presidential Documents

Title 3—

The President

Executive Order 13153 of May 3, 2000

Actions To Improve Low-Performing Schools

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Elementary and Secondary Education Act of 1965 (ESEA), the Department of Education Appropriations Act, 2000 (as contained in Public Law 106–113), and in order to take actions to improve low-performing schools, it is hereby ordered as follows:

Section 1. *Policy.* Since 1993, this Administration has sought to raise standards for students and to increase accountability in public education while investing more resources in elementary and secondary schools. While much has been accomplished—there has been progress in math and reading achievement, particularly for low-achieving students and students in our highest poverty schools—much more can be done, especially for low-performing schools.

Sec. 2. *Technical Assistance and Capacity Building.* (a) The Secretary of Education (''Secretary'') shall work with State and local educational agencies (''LEAs'') to develop and implement a comprehensive strategy for providing technical assistance and other assistance to States and LEAs to strengthen their capacity to improve the performance of schools identified as low performing. This comprehensive strategy shall include a number of steps, such as:

(1) providing States, school districts, and schools receiving funds from the school improvement fund established by Public Law 106–113, as well as other districts and schools identified for school improvement or corrective action under Title I of the ESEA, with access to the latest research and information on best practices, including research on instruction and educator professional development, and with the opportunity to learn from exemplary schools and exemplary State and local intervention strategies and from each other, in order to improve achievement for all students in the low-performing schools;

(2) determining effective ways of providing low-performing schools with access to resources from other Department of Education programs, such as funds from the Comprehensive School Reform Demonstration Program, the Reading Excellence Act, the Eisenhower Professional Development Program, the Class Size Reduction Program, and the 21st Century Community Learning Centers Program, and to make effective use of these funds and Title I funds;

(3) providing States and LEAs with information on effective strategies to improve the quality of the teaching force, including strategies for recruiting and retaining highly qualified teachers in high-poverty schools, and implementing research-based professional development programs aligned with challenging standards;

(4) helping States and school districts build partnerships with technical assistance providers, including, but not limited to, federally funded laboratories and centers, foundations, businesses, community-based organizations, institutions of higher education, reform model providers, and other organizations that can help local schools improve;

(5) identifying previously low-performing schools that have made significant achievement gains, and States and school districts that have been effective in improving the achievement of all students in low-performing schools, which can serve as models and resources;

(6) providing assistance and information on how to effectively involve parents in the school-improvement process, including effectively involving and informing parents at the beginning of the school year about improvement goals for their school as well as the goals for their own children, and reporting on progress made in achieving these goals;

(7) providing States and LEAs with information on effective approaches to school accountability, including the effectiveness of such strategies as school reconstitution, peer review teams, and financial rewards and incentives;

(8) providing LEAs with information and assistance on the design and implementation of approaches to choice among public schools that create incentives for improvement throughout the local educational agency, especially in the lowest-performing schools, and that maximize the opportunity of students in low-performing schools to attend a higher-performing public school;

(9) exploring the use of well-trained tutors to raise student achievement through initiatives such as ''America Reads,'' ''America Counts,'' and other work-study opportunities to help low-performing schools;

(10) using a full range of strategies for disseminating information about effective practices, including interactive electronic communications;

(11) working with the Department of Interior, Bureau of Indian Affairs (BIA), to provide technical assistance to BIA-funded low-performing schools; and

(12) taking other steps that can help improve the quality of teaching and instruction in low-performing schools.

(b) The Secretary shall, to the extent permitted by law, take whatever steps the Secretary finds necessary and appropriate to redirect the resources and technical assistance capability of the Department of Education (''Department'') to assist States and localities in improving low-performing schools, and to ensure that the dissemination of research to help turn around low-performing schools is a priority of the Department.

Sec. 3. *School Improvement Report.* To monitor the progress of LEAs and schools in turning around failing schools, including those receiving grants from the School Improvement Fund, the Secretary shall prepare an annual School Improvement Report, to be published in September of each year, beginning in 2000. The report shall:

(a) describe trends in the numbers of LEAs and schools identified as needing improvement and subsequent changes in the academic performance of their students;

(b) identify best practices and significant research findings that can be used to help turn around low-performing LEAs and schools; and

(c) document ongoing efforts as a result of this order and other Federal efforts to assist States and local school districts in intervening in low-performing schools, including improving teacher quality. This report shall be publicly accessible.

Sec. 4. *Compliance Monitoring System.* Consistent with the implementation of the School Improvement Fund, the Secretary shall strengthen the Department's monitoring of ESEA requirements for identifying and turning around low-performing schools, as well as any new requirements established for the School Improvement Fund by Public Law 106–113. The Secretary shall give priority to provisions that have the greatest bearing on identifying and turning around low-performing schools, including sections 1116 and 1117 of the ESEA, and to developing an ongoing, focused, and systematic

process for monitoring these provisions. This improved compliance monitoring shall be designed to:

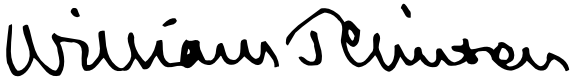
(a) ensure that States and LEAs comply with ESEA requirements;

(b) assist States and LEAs in implementing effective procedures and strategies that reflect the best research available, as well as the experience of successful schools, school districts, and States as they address similar objectives and challenges; and

(c) assist States, LEAs, and schools in making the most effective use of available Federal resources.

Sec. 5. *Consultation.* The Secretary shall, where appropriate, consult with executive agencies, State and local education officials, educators, community-based groups, and others in carrying out this Executive order.

Sec. 6. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
May 3, 2000.

[FR Doc. 00–11531
Filed 5–4–00; 11:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13154 of May 3, 2000

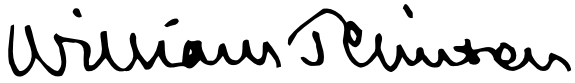
Establishing the Kosovo Campaign Medal

By the authority vested in me as President by the Constitution and the laws of the United States of America, including my authority as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

Section 1. *Kosovo Campaign Medal.* There is hereby established the Kosovo Campaign Medal with suitable appurtenances. Except as limited in section 2 of this order, and under uniform regulations to be prescribed by the Secretaries of the Military Departments and approved by the Secretary of Defense, or under regulations to be prescribed by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, the Kosovo Campaign Medal shall be awarded to members of the Armed Forces of the United States who serve or have served in Kosovo or contiguous waters or airspace, as defined by such regulations, after March 24, 1999, and before a terminal date to be prescribed by the Secretary of Defense.

Sec. 2. *Relationship to Other Awards.* Notwithstanding section 3 of Executive Order 10977 of December 4, 1961, establishing the Armed Forces Expeditionary Medal and section 3 of Executive Order 12985 of January 11, 1996, establishing the Armed Forces Service Medal, any member who qualified for those medals by reasons of service in Kosovo between March 24, 1999, and May 1, 2000, shall remain qualified for those medals. Upon application, any such member may be awarded the Kosovo Campaign Medal in lieu of the Armed Forces Expeditionary Medal or the Armed Forces Service Medal, but no person may be awarded more than one of these three medals by reason of service in Kosovo, and no person shall be entitled to more than one award of the Kosovo Campaign Medal.

Sec. 3. *Posthumous Award.* The Kosovo Campaign Medal may be awarded posthumously to any person covered by and under regulations prescribed in accordance with the first section of this order.



THE WHITE HOUSE,
May 3, 2000.

[FR Doc. 00–11532
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Billing code 3195–01–P

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To designate the United States courthouse located at 223 Broad Avenue in Albany, Georgia, as the ''C.B. King United States Courthouse''. (May 2, 2000; 114 Stat. 245)

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